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REAUTHORIZATION OF AMTRAK

HEARING

BEFORE THE

SUBCOMMITTEE ON SURFACE TRANSPORTATION

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

SECOND SESSION

ON

REAUTHORIZATION OF THE NATIONAL RAIL PASSENGER SERVICE (AMTRAK)

MARCH 17, 1988

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REAUTHORIZATION OF AMTRAK

THURSDAY, MARCH 17, 1988

U.S. SENATE,
SUBCOMMITTEE ON SURFACE TRANSPORTATION,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The subcommittee met at 9:32 a.m. in room SR-253, Russell Senate Office Building, Hon. J. James Exon (chairman of the subcommittee), presiding.

Staff members assigned to this hearing: Sheryl Webber Washington, professional staff member; Robert Holleyman, staff counsel; and Gerri Hall, minority professional staff member.

OPENING STATEMENT BY SENATOR EXON

Senator EXON. The subcommittee will please come to order.

I would like to call the first panel this morning. We have some very distinguished panels. The first panel will be the Honorable John Riley, Administrator of the Federal Railroad Administration; and the Honorable Graham Claytor, Chairman of the Board of Amtrak.

Would you two please come forward?

This morning the Surface Transportation Subcommittee is holding a hearing on the reauthorization of the national rail passenger service, better known as Amtrak. This is the first hearing the Commerce Committee has convened on the reauthorization of Amtrak in three years, primarily because Amtrak was authorized in the Omnibus Budget Reconciliation Act of 1985 for Fiscal Years 1986 through 1988.

The facts are that Amtrak funding is an annual battle that we engage in year after year after year, and certainly with the thrust of the administration's proposal in this area we have another major fight on our hands this year.

I wish to thank the first panel and the others who have come here to give us their expert input and advice on a subject that the Chairman feels is very important to America as a whole.

We have an opportunity today to consider the testimony related to the authorization levels needed by Amtrak over the next 3 years, the quality and adequacy of Amtrak service, the corporation's revenue-to-cost ratio as well as efforts to reduce Amtrak's dependence on Federal financial support.

I must at this time, however, voice my considerable concern over the President's budget which, for the fourth time in the last four years, recommends a zero appropriation for Amtrak.

Each year, Congress has had the wisdom and the foresight, in my judgment, to reject the administration's proposal to totally eliminate Federal funding for Amtrak. However, I am certain we will further explore this proposal in an effort to determine whether the administration has more realistically assessed the issue related to privatization of Amtrak.

Though I consider the need to balance the Federal budget a most important one, I also believe the country needs a national rail transportation system. For this reason, I support Federal funding for Amtrak at a level which will allow it to continue operating the present system.

Furthermore, a closer examination of Amtrak's annual appropriations will show that it accounts for only 2 percent, 2 percent, I emphasize, of the U.S. transportation budget, and that Amtrak funding has declined 35 percent since 1981.

Amtrak is a system which has served over 21 million passengers annually and increased ridership to over 30 million last year with the addition of several commuter service operations.

The corporation also employs 22,400 Amtrak workers and 600 other railroad workers in 44 States. In Nebraska last year, Amtrak ridership was 54,355. There are 25 Nebraskan residents employed by Amtrak and 18 other Nebraskan residents for whose services Amtrak contracts with private railroads. Last year, Amtrak spent $275,000 in Nebraska on the purchase of goods and services.

During the course of today's session, we will hear from John Riley, the Federal Railroad Administrator; Amtrak's president, Graham Claytor; as well as two panels who have some expertise that I believe needs to be cited in the record in this regard.

The first panel will represent State and local interests and includes the mayor of Hastings, NE, Mr. Hal Smith, Jr., who has traveled here by rail, I might add, to discuss Amtrak's impact on our communities.

This panel also includes a representative of State Highway and Transportation Officials.

The second panel includes representatives of the Railway Labor and Railway Passengers, and they have a keen stake in this as far as all of us are concerned.

With these remarks, I will call on the beginning panel.

The Chairman, Senator Hollings and the ranking member of the subcommittee, Senator Kasten will be detained with prior commitments but I will insert their statements into the record.

[The statements follow:]

OPENING STATEMENT BY THE CHAIRMAN

The Surface Transportation Subcommittee has scheduled for this morning a hearing on the reauthorization of Amtrak. This is an important hearing since the current authorization for Amtrak will expire at the end of this fiscal year and the Administration has again proposed to eliminate funding for the corporation. While I do not support the Administration's proposal, I believe that it is incumbent upon us to examine the likely impact of the proposed elimination of Federal funding for Amtrak.

From what I have been able to determine, an elimination of Federal funding for Amtrak would in all likelihood mean the elimination of rail passenger service in this country. It would come to an end. I do not buy the argument that the system—or even substantial portions of the system—are likely to continue operating in the private sector. We've been down that road before. That's why we are funding

Amtrak today, because the private sector is unwilling to do so and we realized back in 1970 that if we wanted to maintain rail passenger service it had to be with Federal assistance.

I, for one, continue to believe that the preservation of rail passenger service in the United States is an important objective. Last year alone, over 30 million passengers rode Amtrak, when its commuter operations are counted. Continued rail passenger service plays an important role for these individuals and the national transportation network.

If we are to continue Federal funding for Amtrak—and I anticipate we will—we should also examine ways in which Amtrak might be improved. What is the quality of its service? How has Amtrak managed to fare in recent years as it has operated with reduced Federal funding levels?

I think the record will show that Amtrak has fared well, all things considered, and through improved efficiency it has met head on many of the challenges posed by Federal budget constraints. For example, pursuant to the Omnibus Consolidated Budget Reconciliation Act of 1985, the Congress authorized $630.3 million in funding for Amtrak in this fiscal year. However, the actual appropriated funding level for fiscal year 1988 is only $580.8 million. Amtrak has managed to meet this challenge by improving its revenue-to-cost ratio in recent years, as well as through increased ridership and other factors. As we look at how Amtrak has met this challenge we will also delve into the corollary issue of how Amtrak is likely to respond to the continuing challenge of Federal budget restraints in the future.

The witnesses scheduled to testify today should be able to provide us with information necessary to address these issues and help us respond to the continuing need for rail passenger service in the nation. I look forward to their testimony.

OPENING STATEMENT BY SENATOR KASTEN

Mr. Chairman, I support the reauthorization of Amtrak at the levels that are requested by Mr. Claytor and Amtrak. The budgetary pressures we are faced with are real. We face other demands in the transportation area such as FAA and Coast Guard funding. However, it does not help to have the Administration's budget continue to zero out Amtrak to fund these other areas.

Amtrak has over the last several years, and particularly last year, had to make do with significantly less in the appropriations process than we have authorized. In order to keep the system operating, capital projects have suffered as funds were expended on the operating functions. Some of these capital projects would have very quick returns on investment, but nevertheless could not be undertaken. I believe that we should recognize the need for our support for Amtrak over the next three years.

Finally, I would like to endorse one particular portion of Amtrak's legislative proposal that could result in significant savings, $16 million in FY89, and that is the chance to undertake Amtrak's three year transfer of jurisdiction for workplace accidents to the state workers' compensation systems rather than handling them under the Federal Employers' Liability Act (FELA) which applies only to the railroads. I do not believe there is any longer a reason to maintain a system developed prior to the workers' compensation systems that serve the emloyees of the other modes of transportation and U.S. industry in general.

While there may be arguments made both pro and con, it seems that a three year experiment would provide Congress, and the interested parties, with a set of data from which to base policy decisions.

So, Mr. Chairman, I look forward to today's hearing and working with you toward appropriate reauthorizing legislation, and hopefully some program to begin to explore the FELA system which appears to me to be an anachronism. The appealing thing to me is that we would not be undertaking an industry-wide change, the experiment would be for a set three year period, and then we could assess what we have learned.

Thank you, Mr. Chairman.

Senator EXON. For all the reasons, then, that I have stated thus far, I once again say I am pleased to recognize Mr. Riley and Mr. Claytor at this time, and I believe it will be best if we proceeded first with your testimony, Mr. Riley.

Thank you for being here.

STATEMENT OF HON. JOHN RILEY, ADMINISTRATOR, FEDERAL RAILROAD ADMINISTRATION

Mr. RILEY. Thank you.

Mr. Chairman, the administration opposes reauthorization of the Amtrak program for the same policy reasons that underlie our decision not to request funding for Amtrak in Fiscal Year 1989.

With Federal deficit projections exceeding $130 billion in 1989, we just cannot continue to annually subsidize more than $600 million in Amtrak operating losses and capital requirements. Amtrak subsidies have exceeded $13 billion in the 17 years of its existence. Should Amtrak continue to receive public subsidy and be reauthorized, the additional subsidies would probably exceed $3 billion over the 5-year budget cycle.

In fact, it is worth noting that the reauthorization level requested by Amtrak for fiscal year 1989 is actually a little over $49 million higher than the amount appropriated in 1988.

Now, these are the policy considerations that have driven the administration's position for the last three years, but they have even more impact in 1989 because of the historic agreement on deficit reduction that was reached last November between the White House and congressional leaders.

The budget targets established for the coming fiscal year are real targets. They have been established by consensus, and they are meaningful. Every dollar authorized for Amtrak represents a direct tradeoff against essential human need programs, essential defense expenditures, and other more critical transportation priorities.

Now, those of us involved in the administration's budget deliberations have had to face the same tough choices that this Committee and the Appropriations Committee are now facing. They are not easy, but we could not in good conscience recommend continued funding for Amtrak at the expense of the air traffic control system, the Coast Guard drug interdiction program, or any of the numerous Federal safety programs, and similar priorities that touch the lives of a greater number of people in a more meaningful way.

Now, nobody can say with certainty what would happen to Amtrak's routes in the absence of Federal subsidies. Some, like the Autotrain, might be attractive to another carrier or a private entrepreneur.

In other cases, like the New York to Washington routes, it is conceivable that a subsidy might come from another source, since it would cost the Northeast Corridor commuter and freight operations at least as much to operate without Amtrak as it would to subsidize that route on Amtrak's system.

In other cases, there is not going to be enough interest to sustain service, and routes are going to be discontinued.

But even in the areas of Amtrak's heaviest patronage, like the Northeast Corridor, alterative transportation modes have more than enough capacity to handle Amtrak's current passenger load.

Mr. Chairman, we have never argued that the transition would be an easy one in every case, but the essence of the administration's position is our belief that it is far better to face the difficulty of that one-time transition than to sustain the annual tradeoffs in-

herent in $500 to $600 million in subsidies as far into the future as we can project.

I want to emphasize that our opposition to Amtrak reauthorization does not imply that we will oppose legislation designed to improve Amtrak's efficiency and reduce its losses. Proposals to exempt Amtrak from Federal Employers Liability Act (FELA) coverage, to require those utilizing its trackage to pay a fair share of the maintenance expenses they necessitate, and to shift the cost of 403 (b) and (d) trains to the communities who request the service or whose residents are the sole beneficiaries of it have been the subject of past testimony by myself and other FRA administrators.

These and similar proposals can only help Amtrak improve its capacity to operate all or part of its system without Federal subsidies and they merit serious consideration. I am not specifically endorsing or opposing any of those proposals, but I want to make it clear that we would not oppose congressional action to help Amtrak become a more efficient and financially successful company so long as that legislation was separate and distinct from a reauthorization of the subsidy program.

We are looking at the recommendations that the President's Privatization Commission submitted, some of which emanated from the Federal Railroad Administration and our analysis of Amtrak.

There is no doubt that Amtrak has improved its financial performance and has improved it dramatically in recent years. I think that Graham Claytor deserves tremendous credit. I have used the word "considerable" in my testimony. I do not think that "considerable" is strong enough for bringing that about. It really was Graham Claytor that changed the corporate psychology of Amtrak and began the move toward a better service and more financially responsible operation.

In my position on the Amtrak board, I have worked hard to support Graham's efforts for almost four years, but for all of the financial improvement we brought about, Amtrak still is losing more than $500 million a year with no end in sight. The budget ceilings this year are real and, in our judgment, the tradeoffs are just too severe to recommend either reauthorization or funding for Amtrak in Fiscal Year 1989.

Thank you, Mr. Chairman. I will not take the remainder of my time.

[The following information was subsequently received for the record:]

QUESTIONS SUBMITTED BY SENATOR HOLLINGS

SENATOR HOLLINGS: The New York Times' front page on Tuesday, March 15, 1988, featured an article entitled, "Air Fares Rise for Many Travellers as Big Carriers Dominate Market." According to this article, business travellers are left with few choices. Under the Administration's proposal, the Amtrak option disappears as well. Given the need to increase competitiveness in this country, how can the Administration justify its abandonment of Amtrak?

ANSWER: With deficit projections for the next fiscal year now exceeding $130 billion, we just cannot continue to annually subsidize more than $600 million in Amtrak operating losses and capital requirements. Every dollar appropriated for Amtrak truly represents a direct tradeoff against essential human needs programs, essential defense programs or other more critical transportation priorities. We simply could not recommend continued funding for Amtrak at the expense of items like the air traffic control system, railroad safety, the Coast Guard drug interdiction program and similar priorities that touch the lives of a great number of people in a more meaningful way.

Nobody can say with certainty what would happen to Amtrak's routes in the absence of Federal subsidies. One of the lessons of air, truck and bus deregulation, however, is that where there is significant unmet demand for service, there will be a carrier to provide it.

Even if all intercity passenger train service were to disappear, however, one should expect very little competitive impact. Although it is now theoretically possible to take Amtrak between most city pairs served by airlines, Amtrak is a real competitor with the airlines only in the Northeast Corridor's Washington, D.C.-New York City market where Amtrak carries about one-third of the combined air-rail market. But even if there were no Amtrak service here, competition among the five major airlines currently in this market would assure competitive fares and service.

CHAIRMAN HOLLINGS: It is my understanding that you have granted Amtrak a waiver of certain U.S. rail passenger safety standards to test a European passenger train between New York and Boston. Some have questioned the safety implications of this waiver during the testing phase as well as its potential future application. Please comment.

ANSWER: The FRA has granted Amtrak a limited waiver of one section of the Track Safety Standards (49 CFR Section 213.57(b)) for test purposes only, subject to specific test conditions including a provision that the test train be operated in compliance with existing rules whenever revenue trains are operated on adjacent tracks.

The section of the standards subject to this

particular waiver limits operation on curved track for all trains (freight or passenger) to a specific speed based on the degree of curvature and the amount of superelevation. Recognizing the many differences between freight and passenger equipment, including the lower center of gravity of passenger vehicles and substantial differences in truck design, it has been felt by some that passenger trains can safely negotiate a given curve at speeds somewhat higher than freight trains. This high speed curving has been practiced by some foreign railroads and Amtrak, on a previous waiver, was granted permission to operate certain-equipment at higher curving speeds than presently allowed.

Newer passenger vehicles are incorporating "tilting" mechanisms to permit even higher speeds on curves while allegedly maintaining the same degree of safety and passenger comfort.

The FRA is not comfortable considering higher curving speeds based solely on foreign experience and has insisted on a carefully conceived test program to document vehicle performance if Amtrak wants to improve trip times on specific routes by increasing the speed on curves.

Any further consideration of permitting trains to operate at speeds in excess of existing requirements cannot be made until current test results can be analyzed and any safety implications fully considered.

SENATOR HOLLINGS: Please indicate how many of the communities served by Amtrak lack air service, bus service or either options?

ANSWER: According to Amtrak, 114 communities served by Amtrak have no air service; and FRA found that 102 of the communities have no direct intercity bus service. Thirty-seven communities served by Amtrak have neither air nor bus service.

It should be noted that, while there may not be air or bus service in the community itself, often there is service nearby. For example, while 102 Amtrak-served communities did not have direct bus service, all but 19 of these had bus service within 20 miles.

QUESTIONS SUBMITTED BY SENATOR PRESSLER

SENATOR PRESSLER: Mr. Riley, according to your testimony, the Administration's opposition to Amtrak reauthorization is not to imply that the Administration would necessarily oppose legislation designed to improve Amtrak's efficiency and reduce its losses. At this time, could you provide the Committee suggestions for legislation?

ANSWER: Both Amtrak and the Department have proposed deficit reduction legislation which the Committee might consider. The Department supports and urges enactment of Amtrak's legislative proposals to exempt its employees from coverage under the Federal Employees Liability Act and the Railroad Unemployment Insurance Act and to replace that coverage with State compensation and unemployment programs. We believe that the Committee should also consider legislation requiring that (1) States pay full costs of 403(b) and (d) train services of which their residents are the sole beneficiaries, (2) Northeast Corridor (NEC) commuter agencies pay their fair share of the maintenance and capital costs attributable to NEC commuter operations and (3) labor protection payments be limited to one-time payments of no more than $25,000.

Senator EXON. Thank you, Mr. Riley.

Mr. Claytor, we are delighted to recognize you at this time for what I anticipate will be at least somewhat of a rebuttal other than the nice things that he had to say about you and your management of Amtrak, and I wish to associate myself with that portion of Mr. Riley's remarks.

Mr. Claytor.

STATEMENT OF W. GRAHAM CLAYTOR, JR., PRESIDENT AND CHAIRMAN OF THE BOARD, NATIONAL RAILROAD PASSENGER CORP., ACCOMPANIED BY TIM GILLESPIE, ASSISTANT VICE PRESIDENT OF GOVERNMENT AND PUBLIC AFFAIRS; WILLIAM NORMAN, EXECUTIVE VICE PRESIDENT; AND DENNIS SULLIVAN, VICE PRESIDENT OPERATIONS AND MAINTENANCE

Mr. CLAYTOR. Thank you very much, Mr. Chairman. It is always a pleasure to appear before this committee.

First, I would like to ask that my prepared statement be included in the record.

Senator EXON. That will be done without objection.

Mr. CLAYTOR. Thank you.

In view of the suggestion about privatization that has been heard today, I would also ask that a summary of my testimony dealing with that issue that was given on January 29, 1988, before the President's Commission on Privatization be included in the record.

Senator EXON. Without objection, it will be included by reference.

Mr. CLAYTOR. Mr. Chairman, this is the first authorization we have had in 3 years. Accordingly, it necessarily covers a very considerable number of topics. I will not try to summarize all the items covered in my testimony today, but I would like to touch on a few of the principal points.

Before I do that, I would like to introduce on my left Mr. Tim Gillespie, our assistant vice president Government and public affairs. Sitting behind me is Mr. William Norman, our executive vice president, and Mr. Dennis Sullivan, our vice president, operations and maintenance, whom I have asked to accompany me in the event we have questions that fall within their area.

Senator EXON. Very good.

Mr. CLAYTOR. Thank you, sir.

First, on the zero budget, this is the fourth time we have had this proposal in 4 years. It has been considered in great detail. I have testified about it before congressional committees at least a dozen times; and it has been rejected by the Congress three times. I do not think it would be reasonable to take the time now to go into details of the reasons why I think this is an absolutely impossible suggestion.

I have included as appendix 1 to my prepared testimony an up-to-date analysis of why this would not only not save money but would be bad policy. It, of course, would not save money because:

We would immediately trigger bankruptcy by the company;

We would incur an obligation of about $2.3 billion for labor protection, which would be totally wasted money;

We have $3.2 billion of assets, most of which would have to be scrapped; and so.

Fundamentally, it would not save money; it would throw money away.

Now, let me talk about the present state of Amtrak for just a moment. In 1988 Amtrak will have $1 billion of its own revenue for the first time. This would put us in the middle of the Fortune 500 industrial companies in revenue, our own revenue. I do not count government revenue. This is what we will have earned.

Over the last 8 years we have made enormous progress in cutting our costs and particularly in getting better labor agreements. We have completed the takeover of train and engine crews nationwide, and we now have lower wage rates and better work rules than any other major railroad in the United States. The labor agreements that we have achieved over the last 8 years are now saving us over $200 million a year.

Now, that has been done by joint work between our labor unions and Amtrak. We have worked together, and together we have achieved this. I think it is a most important achievement.

As a result of this as well as increased revenues, we have steadily reduced, steadily improved our revenue-to-cost ratio. To me, that is our bottom line.

What proportion of our total operating costs are covered with our own revenue? In 1981 it was 48 percent. We raised it to 65 percent in 1987. It is going to be better than two-thirds, 67 percent, this year, and I believe that in 1989 we can make 69 percent. I am shooting for 70 percent. That is the goal I would like to have by the end of this decade.

In addition, in 1987, we covered for the first time 100 percent of our short-term avoidable operating costs with our passenger operating revenues. What that means is on a systemwide basis, 100 percent of the actual cost of running these trains was covered with our own passenger revenues.

The infrastructure costs and a lot of the other costs were not covered, but our first goal was to cover 100 percent of short-term avoidable costs. We met that in 1987 with 103 percent covered with our own revenues.

Government assistance: we had a $900 million appropriation in 1981, and $581 million in 1987. I think we are the only Government-supported agency that has been increasing and improving its service with decreasing, steadily decreasing, government support every year. We hope to keep that going.

Our operating deficit, which is the most important thing we watch, has decreased by 37 percent from 1981 to less than $560 million in 1988. We expect to reduce it further in 1989 by $2 or $3 million in spite of absorbing some $67 million in inflation of our costs during the coming year.

Now, the thing I want to point out most, though, is that the cuts in our appropriated capital have been the things that have been most drastic. In 1981, we got $221 million in appropriations for capital improvements. That investment has resulted in enormous returns which have been largely responsible, together with our reduced labor costs, for our improvement in the bottom line.

In 1987, the capital appropriation was $21.3 million, a reduction in those years of 91 percent in appropriated capital. To me, this is disturbing, because the only way a company this size can keep moving forward, improving its financial operation as well as its service, is by the investment of necessary capital. We must go forward with that.

Now, what do we ask? For 1989, we are asking for an authorization of $630 million. This is the same figure that was authorized for us for 1988. It was not appropriated in full, but we are asking for the same authorization.

With our reduced operating expenses, this would provide us with $72.5 million of capital, significantly more capital than we have been provided in the last year or two.

Incidentally, there are news reports that British rail is spending for capital improvements in its rail system 3 billion pounds for 1989, or approximately $5 billion. What we are seeking here is merely $72.5 million just to get us going again.

We ask for more capital because without it, we obviously cannot continue at the same rate to improve our operating losses. In our testimony we describe sample capital projects that have an internal rate of return of 50 percent or more.

Now, there are two other areas I want to mention that are sources of funds for us in addition to our own earnings.

First is the Northeast Corridor improvement project. That is responsible for the superb state of our Northeast Corridor between Boston and Washington today, but it was never fully finished. Approximately $200 million more for this project has been authorized but not appropriated.

We have been asking for small amounts of appropriation to take care of critically important capital items there each year. Last year, we had an appropriation of $27 million. This year we are asking for $30 million.

We do not need any further authorization from this committee, because the combination of the original authorization plus additional authorizations for safety measures that have been included in the pending Rail Safety Bill will cover this. So this is being passed to this committee for information only.

There is a second area of funding that I think should be exploited by the government. Just this year, the Urban Mass Transit Administration of DOT awarded the Maryland Department of Transportation 75 percent of a $13 million project to put centralized traffic control on the privately owned B&O/CSX Railroad between Baltimore and Washington and Washington and Brunswick, on which a total of only 22 daily MARC commuter trains operate.

We have completed the most modern centralized electrified traffic control system in the world between Washington and Wilmington. We desperately need to extend that from Wilmington to Newark, the rest of the basic part of the New York to Washington Corridor.

In fact, had that been done, we would have utterly avoided the unfortunate derailment we had at Chester, Pennsylvania not long ago, because the tower system that operates there is obsolete and needs to be replaced.

Now, in that stretch from Newark to Wilmington, there are 228 daily New Jersey transit trains, commuter trains, operating between Trenton and Newark, and there are 150 daily SEPTA trains, Southeast Pennsylvania Transit Trains, that operate every weekday between Marcus Hook, Pennsylvania, just north of Wilmington, and Trenton.

What we think should happen is that UMTA grants ought to be given to these two commuter agencies to provide this centralized traffic control, which will be primarily for the benefit of these commuter trains. They operate many more trains than we do over the area. If 75 percent of the cost were given by UMTA and we would split with the commuter agencies the remainder, we could promptly move forward with the rest of this centralized electric traffic control system to everyone's benefit.

Now, the Senate Authorizing Committee for UMTA is not this committee but the Banking, Housing and Urban Affairs Committee. I raise this because I know of the interest in this committee in the operation of this Northeast Corridor project.

I would hope that this committee will raise this issue with the Banking Committee. I think it is an important thing that ought to happen. We have the example. This has already been done in Maryland, and we think it should be done here as well.

Now, Mr. Chairman, we have an extensive legislative program. There are nine separate proposals that I think would provide about $80 million a year to Amtrak, that would save Amtrak about $80 million a year of appropriation if they were enacted.

I am not going now to take the time to go over every one of these. I do want to mention just one, the Federal Employees Liability Act proposal that we have.

This is a highly controversial question. We think the merits are clear, but I do not want to argue the merits. Now, what I suggest to this committee is that here is an opportunity to try out and find out what the true facts are with respect to FELA versus the State Workmens Compensation Acts that apply to every other industry except railroads.

What we propose is that Amtrak be used as a trial bed for this. We suggest that for the next three years Amtrak should operate under the state workmens compensation acts. At the end of 2 years, we would ask the GAO to check and see how this has worked.

At the end of the third year the experiment would terminate and Amtrak would go back to FELA unless Congress affirmatively extends it. So I am not trying to sneak something by. I am trying a genuine test, and if this test is successful, as I am confident it will be, Congress will have to act to extend it. Otherwise it would terminate.

This we think is probably one of the most important things that we can request. I would ask that a document we have prepared entitled "Amtrak's Response To Background Paper on FELA By The Coalition For Safe and Responsible Railroads" be inserted in the record.[1] The document responds to many of the arguments raised by those opposing any change to FELA.

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[1] The document was retained in the Committee files.

Mr. Chairman, that is the end of my prepared statement. I will be happy to answer any questions.

[The statement follows:]

STATEMENT OF W. GRAHAM CLAYTOR, JR., PRESIDENT AND CHAIRMAN OF THE BOARD, AMTRAK

My name is W. Graham Claytor, Jr. I am President and Chairman of the Board of the National Railroad Passenger Corporation (Amtrak). This is the first hearing on the reauthorization of Federal financial support for Amtrak in three years, and I am pleased to appear today before this distinguished Committee.

At the outset, I should note that the President's budget, for the fourth time in the last four years, recommends a zero appropriation for Amtrak. This, of course, would shortly require the termination of all Amtrak operations and, because of the enormous labor protection liability that this in turn would trigger, would result in the bankruptcy of the company. In each of the last three years, the Congress has considered this proposal in depth and has rejected it as impractical, more costly to the government than continuation of Amtrak funding, and bad public policy. Attached to this testimony as Appendix 1 is a detailed analysis of the impact of the President's proposal. In view of the extensive congressional consideration previously afforded the issue, however, I will not deal with it further in this testimony. I should point out how pleased I am that Senator Frank Lautenberg has sponsored S. Res. 383 supporting adequate funding of Amtrak to "enable it to continue to operate a national railway system and to continue the progress that has been to improve its financial performances and service levels." S. Res. 383 already has been cosponsored by Senators Pell, Moynihan, Weicker, Biden, Specter, Byrd, Mikulski, Bradley, Burdick, Fowler, Harkin, Bingaman, Heinz, Sanford, Roth, Sarbanes and Rockefeller. Amtrak obviously appreciates the support and confidence of these sponsors of S. Res. 383, and their recognition of the importance of intercity rail passenger service to a balanced transportation system.

I will, however, as background for consideration of our authorization request and related legislative program, briefly summarize Amtrak's growth, development and financial and other accomplishments over the seven year span of the present Administration—from the beginning of 1981 through 1987. During this period we have significantly improved the quality of Amtrak's service while continuing a modest expansion; we have led the railroad industry in negotiating gradual reforms of outmoded and costly labor work rules; we have initiated a program to modernize our traffic control and maintenance facilities; and we have become leaders in innovative improvements in several important technical areas.

We also have utilized our facilities and our experienced personnel in providing services to the commuter railroads in our service areas. For some time, we have maintained and operated under contract those Baltimore to Washington commuter trains of the Maryland Department of Transportation (MARC) that operate over our line. Effective January 1, 1987, we contracted with the Massachusetts Bay Transportation Authority (MBTA) for the similar operation and maintenance with our own employees of its extensive rail commuter services in the Boston area—as a result of which the total number of passengers carried on Amtrak-operated trains grew from 21 million in FY 1987 to 30.6 million in FY 1987, and this figure will exceed 34 million in FY 1988. We are also considering comparable arrangements with commuter authorities in Connecticut, Virginia, Florida and California.

In addition, we frequently contract with various commuter agencies for assembly or repair of their commuter equipment, for welding their rail, for maintenance of their track, and for the leasing of our maintenance-of-way equipment when not otherwise required for Amtrak's needs. We are careful to ensure that the prices we bid in all such contracts include all direct costs plus allocated overhead, material handling charges, depreciation, general and administrative expenses, and, finally, an appropriate profit margin. Our costing methodologies have been reviewed by Arthur Andersen, our independence auditors, as well as by the General Accounting Office (GAO), and found to be consistent with generally accepted accounting standards. In addition, specific contracts are review annually during our independent audit.

As a result of all the foregoing, we have increased our revenues, our revenue passenger miles, and the quality of our service while at the same time holding down our costs. Furthermore, we have done so in spite of a steadily decreasing amount of Federal financial support.

Amtrak generated a record $973 million in revenue in FY 1987, and we project that Amtrak will be a billion dollar company in FY 1988. On that basis, Amtrak would fall within the upper half of *Fortune* magazine's most recent listing of the "50

Largest Transportation Companies" if Amtrak were included in that listing, and we would be near the middle of *Fortune's* listing of "500 Largest Industrial Companies" if in turn Amtrak fell within that category. In addition, Amtrak recently displaced the Eastern Airlines shuttle as the largest passenger carrier between New York and Washington, and Amtrak finally has been mandated by the General Services Aministration as the primary preferred carrier for government business travel between various points on the Corridor.

A few years ago, Amtrak frequently was criticized for continuing to operate under traditional high-cost railroad labor agreements. Beginning in 1981, Amtrak has worked closely with its labor organizations to renegotiate these standard industry-wide agreements. Progress in that year included a new agreement with the non-operating unions to hold down future wage increases until a reduction of 12 percent below the industry standard was reached, and to make a number of important work-rule changes, including split shifts in certain areas, flexible start time, reduced guaranteed pay and lower entry pay rates. When fully implemented, these changes produced annual savings of approximately $165 million. The impact of these changes in reducing wage cost increases during the 1981-1983 period is shown graphically in Chart 1, annexed to this testimony.

In 1982, Congress mandated the takeover by Amtrak of all train and engine crews operating Amtrak trains on the Northeast Corridor. The two operating craft labor organizations, the Brotherhood of Locomotive Engineers (BLE) and the United Transportation Union (UTU), worked out an agreement with Amtrak to eliminate the traditional time/mileage pay formula under which train crews had received a day's pay for each 100 or 150 miles traveled, and to replace that formula with hourly wages and a 40-hour work week, with time and a half for overtime. These agreements also eliminated the requirement for a second man in locomotive (the fireman), reduced minimum crew size and did away with a number of traditional arbitrary restrictions and penalties. The more important of these new arrangements were phased in over a three-year period, and when fully implemented resulted in annual savings of an additional $15 million.

I believe it is important to emphasize that this agreement stands as a tribute to the courage and sound thinking of the BLE and UTU officers who participated in this highly successful negotiation. All too often, industry labor and management have asked Congress to solve their problems. In our agreement, labor and management cooperatively solved, without outside intervention, problems that have divided them for nearly 50 years.

In 1983, most of these work rules were extended to Amtrak's Auto Train service, resulting in a reduction from six crews (24 workers) to only two crews (8 workers) for the trip from Lorton, Virginia to Sanford, Florida. The impact of this change on Auto Train service alone amounts to annual savings of some $2 million.

Finally, Amtrak and its labor organizations made additional non-operating work rule revisions in 1985 and 1986 that resulted in an annual savings of an additional $5 million. Even more importantly, Amtrak also assumed direct employment of train and engine crews on all its daily trains throughout the country. These agreements followed the earlier Northeast Corridor pattern of hourly wages for a 40-work week rather than the traditional time/mileage pay formula. They also provided for a single engineer in the cab on most runs scheduled for less than four hours and two fully qualified engineers on all longer runs. Annual savings from the crew takeover agreements come to some $40 million.

Since their implementation, these new labor agreements have enabled Amtrak to realize total annual cost savings of over $200 million. As a result, Amtrak's labor productivity is superior to and its labor costs well below those of other major railroads. Chart 2, annexed to this testimony, shows that between 1980 and 1988, Amtrak's cumulative wage increases of 34 percent were significantly—some 29 percentage points—below the 48 percent average increases for the railroad industry. In addition, Chart 3, annexed hereto, shows that in 1988 Amtrak's Journeyman pay rate is 9 percent below that of the railroad industry as a whole. It should also be noted that Amtrak is the only major railroad in the United States that has succeeded in eliminating the outmoded time/mileage pay formula and related work rules and restrictions for its train and engine crews, and thus is able to operate like most American industry on the basis of hourly wage rates and a 40-hour week.

Obviously, these positive changes and large savings could not have been accomplished without the dedication of a truly admirable and inspiring work force and their highly responsible union leaders. I cannot overemphasize the high esteem and appreciation I have for Amtrak's employees, their concern for Amtrak's future, and the changes they have been willing to accept to enable Amtrak to reduce its dependence on Federal financial support.

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Amtrak's costs over the last seven years have also been held down by excellent returns on its investment of the substantial capital provided in earlier years. These capital improvements have included the modernization of the obsolete Beech Grove maintenance facility and of the Wilmington Delaware shops obtained from the bankrupt Penn Central Railroad; the construction of a modern new maintenance facility with NECIP funds at Ivy City in Washington, D.C.; the acquisition of modern diesel and electric locomotives, 640 new Amfleet passenger cars in the East and 284 two-level Superliner cars in the West, as well as the electrification and rebuilding of many older passenger cars inherited from the various railroads. In the aggregate, these accomplishments have enormously increased the efficiency and lowered the cost of our operations.

Equally important has been the growth of Amtrak-generated revenues. As our equipment and service have improved, our revenues have grown steadily. Chart 4, annexed hereto, illustrates the dramatic 27 percent growth, in constant dollars, of our revenues from FY 1981 to FY 1987 compared with an equally impressive 6 percent *reduction* in operating expenses during this same period. In current dollars, revenues over this period increased substantially faster than increases in operating expenses—59 percent for revenues compared to only 16 percent for expenses.

These two factors—sharply increased revenues and only small changes in operating expenses—have enabled Amtrak to obtain impressive improvements in our bottom line: the percentage of our total operating costs that are covered by our own revenues. This figure—our revenue-to-cost ratio—was only .48 in FY 1981. As illustrated by Chart 5, annexed hereto, for FY 1987 it stands at .65, an improvement of 35 percent. We expect to make or surpass two-thirds—.67 or better—in this Fiscal Year 1988 and have a goal of .70 or better by 1990.

In 1987, we also achieved another long-sought goal: to cover with route revenues on a system-wide basis all of the shortly term avoidable or "out-of-pocket" costs of operating all of our trains. In FY 1981, route revenues covered only 73 percent of these costs; in FY 1987, we surpassed our goal of covering 100 percent of our short term avoidable costs. See Chart 6, annexed hereto.

Finally, as shown in Chart 7, our requirement for Federal financial support has dropped from $900 million in FY 1981 to $581 million for the current FY 1988—a decline of $319 million, or 35 percent, in these eight years. In constant dollars, this reduction is even more dramatic—a 50 percent reduction. I believe I am correct when I state that Amtrak is the only Federally supported entity that has succeeded over recent years in improving both the quantity and the quality of its service at the same time its Federal financial support has been substantially reduced.

It is important, however, to go one step further and consider the nature and impact of this large reduction in Federal financial support. Chart 8, annexed hereto, lists the amount of our total Federal appropriations in current and constant dollars since FY 1981 that was applied to offset Amtrak's operating deficit and labor protection payments, and the remaining amount available for capital investment. Despite extreme inflation during the early portion of this period and significant average inflation during the entire period, the reduction in our need for appropriations in current dollars to offset our operating deficit (including labor protection) was nonetheless impressive—$116 million, or a reduction of 17 percent. In constant 1981 dollars, the reduction in this period of course was even greater—almost 37 percent.

We are proud to have succeeded in making such really significant improvements in our financial performance, and certainly will strive to continue this trend. However, when we consider the dramatic decline in Federal funds available for Amtrak's capital requirements during the past seven years, we are deeply disturbed. As Chart 8 demonstrates, in FY 1981, our Federal appropriations available for capital amounted to $221 million. Amtrak's resulting return on the investment of this and other capital grants was a major factor in enabling us to make the impressive service and financial improvements described above. In almost every year thereafter, however, funds available for capital investment declined precipitously: in FY 1986, Federal capital grants were essentially zero; for FY 1988, appropriated capital is estimated to amount to only $21.3 million, a decline from FY 1981 of some 91 percent. In constant 1981 dollars, this FY 1988 capital amounts to only $16.3 million, a decline of 93 percent since 1981. This constant dollar figure is the true measure of the reduction in real purchasing power of this capital. Without continued investment in the many capital projects that are now desperately required and which would provide high internal rates of return, Amtrak cannot hope to maintain the favorable financial momentum it has achieved in recent years. Unfortunately, this would mean that a greater portion of Federal financial support would be required to offset operating deficits rather than to finance capital improvements that would reduce those deficits.

On February 19, 1988, Amtrak submitted to the appropriate House and Senate Appropriations Subcommittees its Fiscal Year 1989 Grant Request and Justification for an appropriation of $630 million. In this section of my testimony, I will discuss our request for authorization of this amount. A similar request was heard on February 25, 1988, by the Subcommittee on Transportation, Tourism and Hazardous Materials of the House Energy and Commerce Committee.

As detailed in Chart 8 and discussed above, Amtrak has succeeded in each of the past few years in reducing its annual operating loss and our resulting need for operating grant funds. For FY 1989, we estimate that this figure will further decline to only $557.4 million (including labor protection), a reduction of $2 million from our FY 1988 operating grant despite an anticipated inflation in our costs of 4.3 percent, or some $65.3 million. With an anticipated growth in revenue in FY 1989 of 6.7 percent, we intend to achieve a revenue-to-cost ratio in that year of .69, and we have some real hope of doing even better if the economy remains strong.

Even with our operating grant requirement for FY 1989 thus held down to $557.4 million—the lowest amount in eleven years despite steady inflation in each of those years—the authorization and appropriation of $630 million would provide only $72.6 million for desperately needed capital improvements. Before describing some of these capital needs and the expected return on their investment, however, I should make clear that Amtrak must yearly spend some $30–$40 million on miscellaneous capital projects that are required simply to keep the railroad operating, and therefore do not constitute real improvements. These include such projects as installing event recorders in our locomotives and baggage racks and seat locks in our passenger coaches for safety purposes, making required payments on earlier locomotive purchase contracts and Amtrak's Superliner litigation settlement, replacing worn rail and ties on the Northeast Corridor and the San Diego line, etc. Amtrak expects to generate in FY 1989 approximately $30.5 million in net revenue from our corporate development, real estate, and other non-transportation activities that we can apply to these miscellaneous capital requirements, as we have done in prior years. As a result, however, our entire litany of other capital projects must necessarily depend on Federal financial support for funding.

Beyond the basic requirements to maintain the railroad's infrastructure and ensure the safety of our passengers and employees, Amtrak seeks every opportunity to invest in projects that not only support our rail passenger service goals, but also yield high investment returns that will further reduce Amtrak's dependence on Federal subsidies.

Accordingly, for FY 1989, Amtrak hopes to be able to invest a total of $103 million in capital, which includes $30.5 million of internally-generated funds and $72.6 million in requested Federal grant funds. The projects cover all investment categories—rolling stock, maintenance facilities, stations, information systems/communications, right-of-way, and other improvements. A summary of this overall capital program is included with this testimony as Chart 9.

Included in our capital program is the reseating of our Amfleet coaches to expand capacity from 60 to 68 seats per car, thereby increasing the revenue capacity of our Metroliners and other short-distance services. This investment of $1.3 million should increase revenues by an average of $1.2 million annually. Our program of converting stored obsolete Capitaliner units into modernized push/pull cab cars will increase our fleet capacity and, because of efficiencies inherent in the use of push/pull equipment, enable us to avoid turning equipment at the end of each run. The $10.8 million needed for these conversions is projected to have an internal rate of return (IRR) of 50 percent. Our $600,000 investment in Automation Support projects will fund the capital portion of such projects as the package express tracking system, equipment fleet allocation process, and the crew management system. The cost savings resulting from these projects, when taken together, are expected to generate an average IRR of over 100 percent. A $300,000 rail grinding project for 135 miles of newly installed continuously welded rail in the Northeast Corridor will improve ride quality and avoid over $275,000 in annual rail surfacing expenses.

Other projects include $1.8 million for modern tooling and equipment at our Bear, Delaware facility that will enable us to overhaul our Amfleet cars, at an IRR of 50 percent; the use of $500,000 to enable us to take advantage of opportunities to buy out leases and refinance or upgrade computer equipment that will save approximately $1 million annually; and installation of video equipment on our Eastern long-distance trains at a cost of $500,000 that is expected to increase revenues by some $1 million per year (based on our actual experience from installing this equipment on our Western trains).

These and other programs would not only enhance the service we can offer our passengers, but would greatly improve our operating efficiency and ultimately

reduce our financial dependence on the Federal government. This continued progress toward self-sufficiency will be possible only if the necessary capital funds are made available for investments such as these.

Amtrak's future, however, continues to be clouded by the uncertainties inherent in the need to obtain authorization and appropriation of funds every year. This not only makes any real forward planning impractical, but it also severely limits Amtrak's ability to finance equipment and other capital purchases that every other railroad makes routinely. The inclusion of Amtrak in a Transportation Trust Fund, along with the several commuter railroads with which it works closely, appears to be the best and most sensible solution to this problem. We hope that in the years ahead the Congress will give careful consideration to this approach.

Apart from the requested capital grant discussed above, there are two other sources of capital funds that should enable us to meet additional badly needed requirements. I will discuss each of these briefly.

1. Northeast Corridor Improvement Project (NECIP).—The basic NECIP program, which began in 1976, authorized a total appropriation of $2.5 billion. Of this authorized amount, there has now been appropriated only $2.274 billion, including $27.5 million in FY 1988, leaving some $216 million in remaining authority for this still unfinished program that has not been appropriated. Attached as Chart 10 is a request for a FY 1989 appropriation for critically needed projects under this program of $30 million—an amount only slightly more than the amount appropriated for the current fiscal year.

Three of these items, totalling $9.6 million, involve the completion of safety improvements recommended by the National Transportation Safety Board with which we are in full agreement. These items were not specifically listed in the original NECIP authorization, but would be authorized under the pending rail safety bill now in Conference. If that bill is not enacted, we will request that these items be authorized for appropriation during FY 1989.

2. Urban Mass Transit Authority (UMTA) Grants to Commuter Authorities.—Amtrak is not a commuter railroad, but an intercity rail passenger carrier. Nonetheless, Amtrak's ability to operate reliably and efficiently in the Northeast Corridor is essential to the operation of several of the most important commuter railroads in this region, including New Jersey Transit and the Southeast Pennsylvania Transportation Authority (SEPTA).

New Jersey Transit operates a major portion of its commuter service over Amtrak lines between Trenton, New Jersey and New York City, and utilizes a significant portion of our Penn Station in New York City. In the 58 miles from Trenton to New York, New Jersey Transit and Amtrak operate an average of some 314 trains, or 11,700 passenger train miles each weekdey. Of this total, New Jersey Transit operates 6,704 (57 percent) of the train miles, and 228 (73 percent) of the trains. Although Amtrak owns the trackage, its operates only 4,996 (43 percent) of the train miles, and 86 (27 percent) of the trains on this segment.

Similarly, in the 47 miles from Marcus Hook, Pennsylvania (just north of Wilmington) to Trenton, SEPTA and Amtrak together operate some 237 trains, or 6,498 passenger train miles each weekday. Here, SEPTA operates 2,390 (37 percent) of the train miles, and 150 (63 percent) of the trains on this segment. Amtrak operates only 4,108 (63 percent) of the train miles, and 87 (37 percent) of the trains operating each day between Marcus Hook and Wilmington.

Amtrak, with NECIP assistance, has installed and is now testing a very complex and important state-of-the-art Centralized Electric and Traffic Control (CETC) System between Washington and a point just south of Marcus Hook—a total of 110 route miles. The extension of this system over the 106 miles from Marcus Hook to the Hudson interlocking at Newark, New Jersey is urgently needed for the safe and efficient operation of all trains on that segment of trackage, the majority of which are commuter. We believe that the $59.7 million that this extension of CETC and appurtenant signal upgrading will cost should be largely borne by appropriate UMTA grants to the commuter rail users, New Jersey Transit and SEPTA.

In this connection, it is interesting to note that at the request of the Maryland Department of Transportation (MARC), UMTA recently made a grant of $9.8 million for the installation of a comprable centralized traffic control system on the privately owned CSX (formerly B&O) Railroad over which a relatively few daily MARC commuter trains operate between Baltimore and Washington (10 trains) and between Brunswick, Maryland and Washington (12 trains). The total project cost of some $13 million for this installation has been allocated 75 percent to UMTA, 12.5 percent to MARC and 12.5 percent to CSX, which is the owner and primary operator of the railroad. We believe that comparable financing should be utilized for the much more vital CETC extension on the Northeast Corridor between Marcus Hook

and Newark, with UMTA providing 75 percent of the cost and Amtrak and New Jersey Transit equally sharing the rest of the cost between Trenton and Newark, and Amtrak and SEPTA sharing the rest of the cost between Marcus Hook and Trenton. In this connection, it should be noted that agreement already has been reached between Amtrak and the Long Island Railroad for installation of a comparable traffic control system from the Hudson interlocking at Newark through Penn Station to New Rochelle, New York.

Amtrak recognizes that the Housing and Urban Affairs Subcommittee of the Senate Banking, Housing and Urban Affairs Committee, and not this Committee, has jurisdiction over UMTA funding. In view of this Committee's jurisdiction over and interest in Amtrak's operations, however, we urge it to take such action as may be appropriate to raise this issue with that Subcommittee. The recent derailment of an Amtrak train near Chester, Pennsylvania, would have been avoided had the CETC system been in place there. We thus feel that the extension of CETC to Newark is a matter of consdierable urgency.

Attached hereto as an Appendix 2 [1] is Amtrak's 1988 Legislative Report, filed with the Congress and the President on February 15, 1988. In it we have detailed various legislative proposals that would significantly reduce our operating expenses and thereby enable us to oprate more efficiently and at less cost to the Federal government. If all of these proposals were enacted, Amtrak could reduce its operating costs by at least $80 million, and thereby its need for Federal financial operating support by nearly 15 percent. Each of these proposals will for convenience be briefly summarized below.

1. Exemption from the Railroad Unemployment Insurance Act.—The Railroad Unemployment Insurance Act (RUIA), enacted in 1938, governs unemployment and short-term sickness benefits for Amtrak employees. The cost of railroad unemployment insurance is borne entirely by the railroad employer. In addition, the RUIA insurance premium—the cost to the employer—is based on the average unemployment record for the whole railroad industry, not on the record of the individual employer. Under all comparable state unemployment benefits programs, which apply to almnost all non-railroad employees, the cost to the employer is determined by the employer's own unemployment record, thereby entitling him to benefit from a superior employment stability history.

Amtrak has a far more favorable employment record than the railroad industry as a whole and expects to continue this superior performance. Accordingly, Amtrak would realize significant savings in insurance premiums under the state programs, and Amtrak proposes that its employees be covered under individual state unemployment benefits programs rather than RUIA. The only benefit provided under RUIA that is not included under state programs is the provision of short term sickness benefits and these would be provided independently by Amtrak at its own expense.

It is estimated that putting Amtrak under state unemployment benefits programs, and establishing an Amtrak program to provide the short term sickness benefits, would result in annual savings to Amtrak—and the Federal government—of at least $12 million, with unemployment benefits to Amtrak employees equal to or better than those available under RUIA. These savings far exceed any potential savings that H.R. 2167, passed by the House last year, would provide through its amendment of RUIA to include a phased-in, more limited experienced-based premium program.

2. *Exemption From the Federal Employer's Liability Act.*—Claims by all railroad employees for on-the-job injuries are resolved under the Federal Employer's Liability Act (FELA), an 80-year old law that predates modern state workers' compensation programs under which worker injury claims in almost every other industry in America are resolved. The FELA is an outmoded, extremely costly compensation system that depends on the determination of fault and the resolution of claims by litigation. FELA awards and costs against Amtrak have steadily increased over recent years to where such costs represent a significant percentage of the costs of Amtrak's operations. This increase is not due to more claims against Amtrak, but to escalating jury awards, settlements, and legal and medical fees. FELA currently costs Amtrak over $93,000 per day in claims; in FY89, Amtrak estimates a payout of *$38 million* in FELA claims.

Based on the conclusions of a 1986 GAO study, Amtrak could save at least $16 million of this amount merely by switching to the no-fault state workers' compensation system, while at the same time providing injured employees a far faster, fairer

[1] The attachment was not reproducible.

and more efficient method of compensation. Amtrak supports the effort by the railroad industry to place the entire railroad iondustry under state workers' compensation programs. Admittedly, however, this is a controversial proposal, since it would eliminate an extremely lucrative area of practice by personal injury attorneys as well as the excessive jury verdicts that are becoming increasingly prevalent in some personal injury cases. Employees claim that they need FELA to compensate them for injuries in the work place; the railroads claim that litigation of the issue of fault creates adversarial labor-management relations, and results in awards that are entirely out-of-line with the compensation employees in other industries receive for similar work place injuries.

Amtrak proposes that it be used as a test case for the validity of replacing the FELA with state workers' compensation programs. We suggest a legislative provision that would transfer jurisdiction over Amtrak's employee injury claims to the various state workers' compensation commissions under applicable state law for a three-year test period. At the end of that period, the exemption from FELA would terminate unless extended by Congress. Amtrak would recommend that, after it has operated under the state progrms to resolve employee injury claims for two years, the GAO would be asked to perform a second study to provide an independent determination of the success or failure of Amtrak's experience.

Amtrak believes that the estimate of $16 million in annual savings based on the 1986 GAO report will prove to be extremely conservative, and that our savings could be signficantly higher. Indeed, as the size of jury verdicts continue to increase, we believe the savings, when fully implemented, would be in excess of $20 million per year within a few years.

3. *Exemption From the Railroad Retirement System.*—The Railroad Retirement Act of 1935, which predates the enactment of the Social Security system, established the primary pension program what still covers today's railroad workers. Unlike ERISA-type pension programs, which are used by most non-railroad companies and under which funds are collected for each employee and invested for that employee's retirement, Railroad Retirement is based on a pay-as-you go system with both the employer and the employee contributing to the costs. Amounts paid into the system are immediately used to pay the pension benefits of existing retirees. Today, there are over three railroad industry retirees receiving benefits for every active employee paying into the system. As a result, costs have escalated enormously and will continue to do so, and the system as a whole faces possible insolvency in the years ahead. It is estimated that in FY89 Amtrak will be required to pay apporoximately $192 million in Tier I and Tier II taxes into the Railroad Retirement system—*an amount that equals practically one-third of Amtrak's entire FY 1988 appropriation of $581 million.* Tier II taxes alone cost Amtrak over $135 million; however, because of its young work force, only $15.6 million of Tier II benefits will actually go to Amtrak retirees.

Detailed studies made by Amtrak and experienced professional consultants indicate that if Amtrak were allowed to withdraw from the Tier II portion of railroad retirement, and it established instead a Federally insured and fully funded (by Amtrak) private pension program providing the same benefits as now provided under the Railroad Retirement system, Amtrak could save approximately $45 million per year in pension costs. Amtrak employees would continue to pay their share of and receive the benefits of social security (which now constitutes Tier I of Railroad Retirement), but would save up $1500 each year in Tier II Railroad Retirement taxes.

Amtrak's appropriation presently is being used to subsidize the retirement costs for the rest of the railroad industry. This unfairly inflates the cost of providing rail passenger service and improperly inflates Amtrak's need for Federal financial support.

4. Tort Liability.—Under the Federal Tort Claims Act, which provides for legal actions against the United States for personal injury and damage claims, there are specific provisions that prohibit the award against the government of punitive damages and of pre-judgment interest—i.e., interest on damage awards for the period between the time of injury and the entry of judgment. The Federal Tort Claims Act also imposes limits on fees that attorneys representing plaintiffs in damage, personal injury and death cases against the United States may charge their clients. Because damage claims paid by Amtrak ultimately are borne by the Federal government, it is reasonable that these limitations on damages against the United States also be applied to Amtrak.

In addition to these provisions of the Federal Tort Claims Act, one other provision that would limit claims against Amtrak should also be enacted in fairness to the government that must ultimately pay them. This involves the double-recovery per-

mitted under the so-called "collateral source" doctrine, under which evidence of benefits that a plaintiff has already received or will receive, but which are sought by the plaintiff to be collected again as part of compensatory damages claimed in the tort action, is not permitted to be considered by the court or the jury. For example, a plaintiff may claim a wage loss in a personal injury suit even though he actually has been compensated for this under a disability plan. It obviously is unfair to the government to permit a plaintiff to collect twice for the same injury and thus should be prohibited in claims against Amtrak.

5. Limitation on Environmental Liability.—When Congress transferred control of large portions of real estate formerly owned by the bankrupt Penn Central Railroad to Amtrak in 1976, neither it nor Amtrak had any idea that some of the properties may be subject to significant clean-up costs imposed by subsequent Federal legislation for contamination and pollution that occurred during the ownership and operation of the properties by Penn Central or its predecessor railroads. Now, some twelve years later, Amtrak may be liable for the enormous costs of cleaning up pollution that it did not cause merely because Congress transferred ownership of the properties to Amtrak. Amtrak's liability for such environmental cleanup and other liability costs on these properties should be limited solely to that proportion of damages or clean-up costs resulting from pollution, if any, caused by Amtrak.

6. Freedom of Information Act.—Although Amtrak is not a Federal agency but a for-profit corporation under the laws of the District of Columbia, it nonetheless was made subject by Congress to the Freedom of Information Act (FOIA). Application of the FOIA to an operating railroad like Amtrak has at best proved to be of marginal public benefit at a significant cost in the corporation's resources and time, and at worst has worked to Amtrak's competitive and legal disadvantage. Experience has shown that virtually all information which the public could want about Amtrak's performance and its compliance with its statutory goals is routinely made available through congressional authorization and appropriations hearings and through the extensive reports that Amtrak is required to make public. The vast preponderance of FOIA requests—some 91 percent—are not at all directed to information related to Amtrak's operating or financial performance or its corporate policies; instead, most are used by litigants seeking to expand the scope of discovery authorized by the court in litigation against Amtrak and for competitive information submitted to Amtrak by third parties bidding on Amtrak contracts. Amtrak does not believe that Congress took the unusual step of subjecting Amtrak to FOIA in order to aid bidders and litigants. We believe FOIA should be made inapplicable to Amtrak through the repeal of Section 306(g) of the Rail Passenger Service Act.

7. Limiting Labor Protection.—Section 405(c) of the Rail Passenger Service Act, codified at 45 U.S.C. 565, mandated the establishment of labor protection provisions that require Amtrak, in certain circumstances, to pay a furloughed or unemployed Amtrak employee his full salary for a period of time equal to that which he has worked for Amtrak, up to a maximum of six years. These labor protection provisions apply whenever Amtrak discontinues any intercity rail passenger service, and have been held applicable in some cases not only to those not offered equivalent employment but also to an employee who declines to fill an available vacancy for which he is qualified if the position is more than 30 miles from his place of residence. Accordingly, there is a disincentive for the employee to accept alternate available Amtrak positions. The result is the payment of full salaries to employees who are not working merely because they do not want to relocate.

Amtrak is particularly concerned about the substantial, unfair and unnecessary expenses that can be imposed in the event that we wish to change the routes over which any of our trains operate. As railroads abandon certain portions of their lines, or more favorable marketing opportunities develop over alternative routes, it is highly desirable and sometimes essential that Amtrak be free to reroute its trains. Similarly, there may be poor-performance routes that Amtrak should abandon at the same time that other more favorable new routes should be instituted. Under the present arrangement, the cost of making such moves can be so severe that needed changes of this sort must be foregone.

In order to achieve a more equitable and efficient use of Amtrak's resources, a protected employee who has lost employment because of a discontinuance in service should be required to elect one of two options: to transfer to any bona fide vacancy (and be made whole for any compensation loss) for which he can be made qualified in any part of the corporation's system; or to accept voluntary furlough. Should an employee decide to accept a transfer to another position, moving expenses would be reimbursed by Amtrak under existing labor agreements. We believe this would provide fully adequate protection to employees and would give Amtrak the flexibility it needs to adjust its routes to provide the best and most cost effective service.

8. Preventing Secondary Boycotts Against Amtrak.—In certain situations, it may be lawful for striking employees of one railroad to engage in sympathy strikes or "secondary boycotts" against other railroads. If such action were taken against Amtrak, it could shut down our entire intercity passenger service as well as commuter services in the Northeast Corridor which depend on Amtrak for their operation. This should not be permitted.

What Amtrak is proposing would not in any way affect the right to strike Amtrak in connection with labor disputes between Amtrak and any of its labor organizations, but it would prevent labor disputes with and resulting job-actions against freight railroads from shutting down this nation's intercity and commuter rail passenger systems. A comparable provision was included in the 1981 statute authorizing the creation of "Amtrak Commuter."

9. Transfers Between Amtrak and Conrail.—In 1981, pursuant to the Northeast Rail Service Act (NERSA), the Consolidated Rail Corporation (Conrail) ceased operating intercity rail passenger service on the Northeast Corridor. To protect Conrail workes employed in its passenger operations from losing their jobs, NERSA provided that Conrail employees with seniority on the Northeast Corridor in both freight and passenger service from prior to January 1, 1983, could transfer to Amtrak passenger service. Section 1165(a) of NERSA specifically provides that Conrail employees can transfer to Amtrak and back again to Conrail *every six months.* Now, some seven years later, employees are still engaging in such bi-annual transfers.

This right to flow back and forth between Amtrak and Conrail creates additional costs for both companies. Since 1983, approximately 350 Conrail employees have from time to time elected to transfer to Amtrak, displacing junior Amtrak employees, and some 225 Amtrak employees have voluntarily, or because displaced by senior Conrail employees, transferred back to Conrail. Some employees have moved back and forth as many as four times. Such transfers complicate and increase the cost of staffing and create instability and lack of job security in the work place.

Amtrak proposes that section 1165(a) of NERSA be amended to limit affected employees thereafter to a one-time election to transfer to and from Amtrak employment. This would bring Northeast Corridor practices in line with those negotiated with the BLE and the UTU for off-Corridor employees recently taken over by Amtrak.

CONCLUSION

As the Congress considers Amtrak's requested authorization and legislative proposals, the importance of capital investment to Amtrak's future cannot be understated. Decisions by many of the nation's railroads in the 1960s not to invest capital in rail passenger service resulted in the near collapse of such service and the need for the government to invest heavily in rebuilding national rail passenger service. Fortunately, this nation has since made dramatic progress in creating an efficient, modern and energy efficient rail passenger system. Amtrak and its employees are dedicated to continuing this progress at less and less cost to the government. With a Federal commitment to a modest capital program, we can continue to move forward to making America's rail passenger system the best in the world. We look forward to that challenge.

CHART 1

COMPARISON OF PERCENTAGE WAGE INCREASES

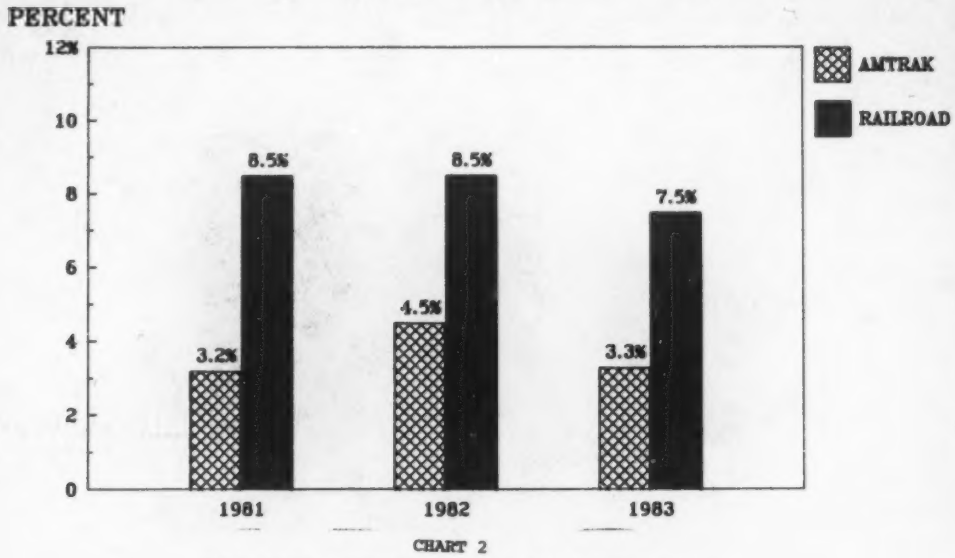

CHART 2

CUMULATIVE PAY INCREASES 1980–1988

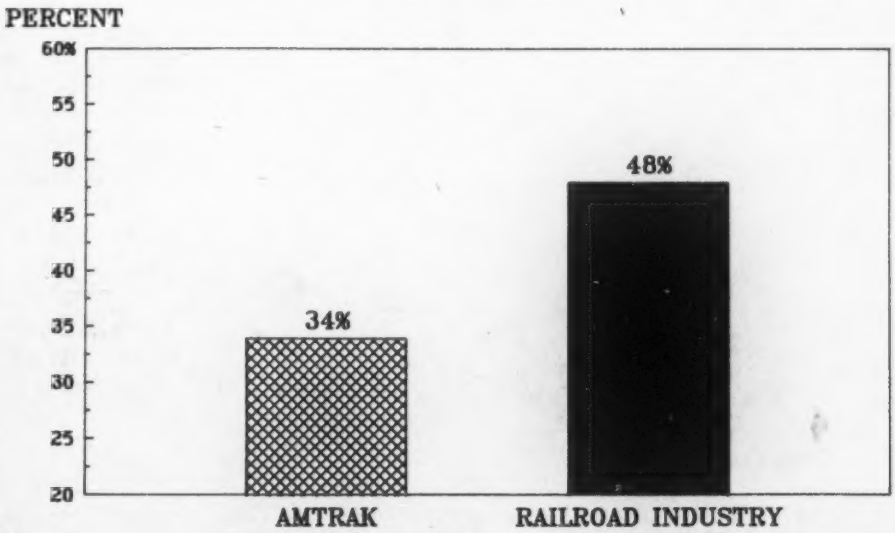

CHART 3

JOURNEYMAN RATE
JANUARY 1, 1988

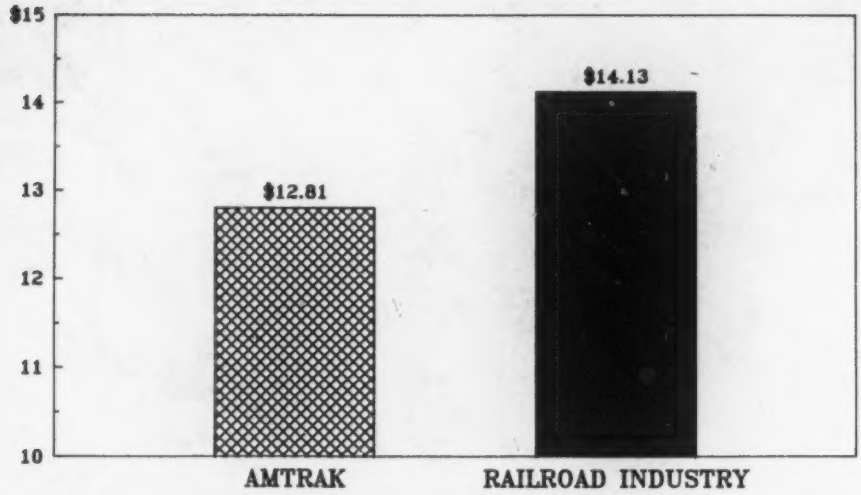

CHART 4

COMPARATIVE REVENUE AND EXPENSE CHANGE

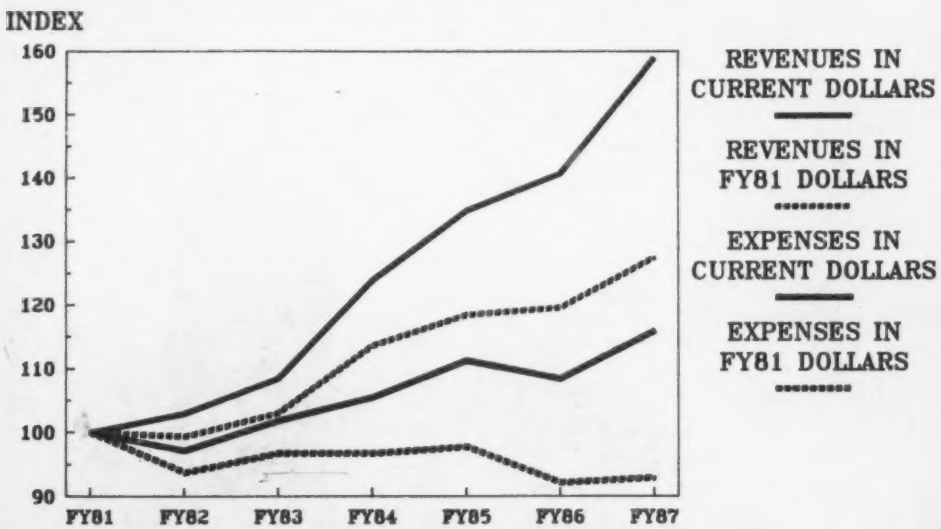

CHART 5

COMPARATIVE CHANGE IN REVENUE TO COST RATIO

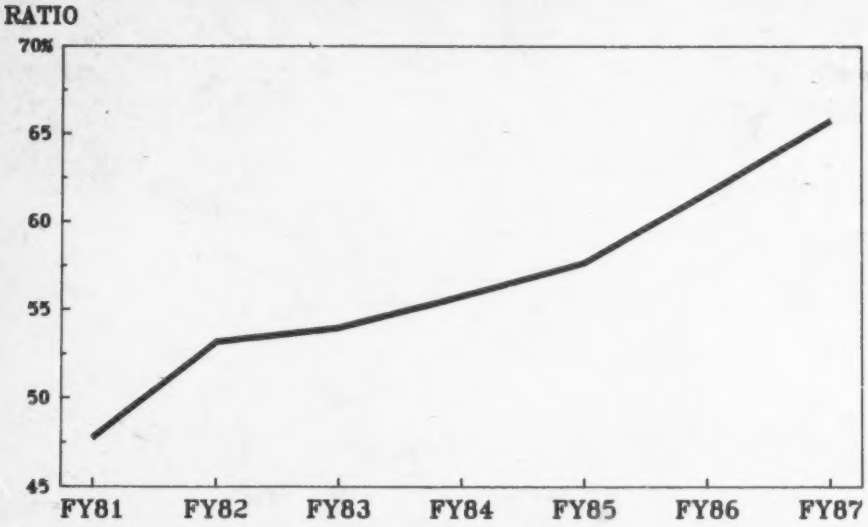

CHART 6

COMPARATIVE CHANGE IN ROUTE REVENUE TO SHORT-TERM AVOIDABLE COST RATIO

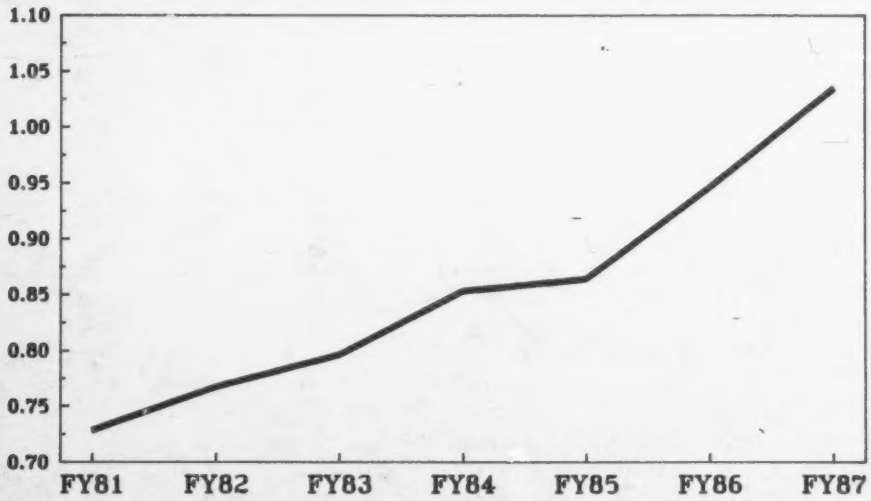

CHART 7

COMPARISON OF FEDERAL SUBSIDY IN CURRENT AND CONSTANT FY81 DOLLARS

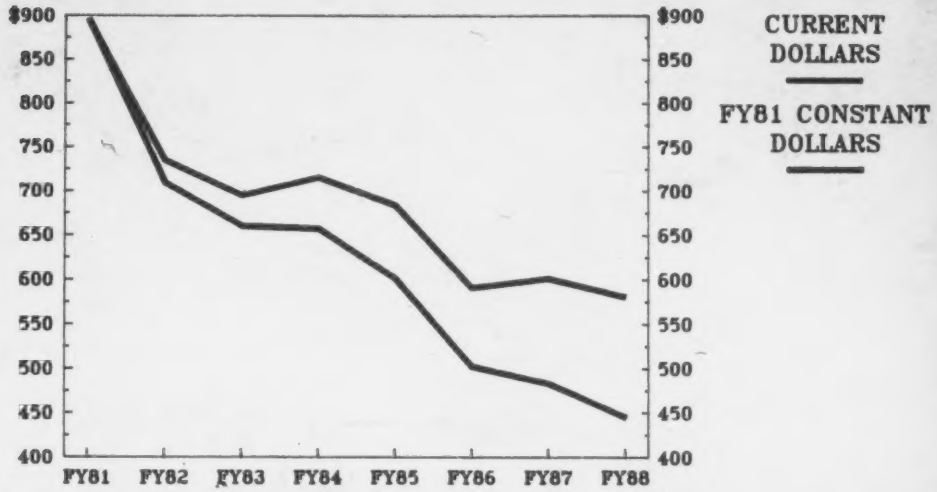

CHART 8—OPERATING AND CAPITAL PORTIONS OF AMTRAK'S FEDERAL APPROPRIATIONS

[Dollars in millions]

Year	Operating grant [1]		Capital grant	
	Current dollars	Constant 1981 dollars	Current dollars	Constant 1981 dollars
Fiscal year:				
1981	675.8	675.8	220.5	220.5
1982	558.4	526.8	176.6	166.5
1983	605.5	553.0	94.3	86.1
1984	618.1	540.7	98.3	86.0
1985	627.7	530.1	56.3	47.5
1986	588.7	495.2	2.0	1.7
1987	580.5	461.9	26.5	21.0
1988	559.5	428.3	21.3	16.3

[1] Including labor protection payments.

CHART 9.—*Amtrak's minimum FY89 capital requirements of $103.1 million will be funded from Amtrak self-generated funds of $30.5 million and a $72.6 million capital grant*

Projects Funded by Amtrak's Self-Generated Funds:

The projects to be funded from Amtrak's self-generated funds include those required for equipment safety enhancements, contractual commitments for acquiring locomotives, vehicles, and computer equipment, and for joint participation agreements such as West Side Connection and Washington Union Station Redevelopment.

More detailed descriptions of these projects follow:

Rolling Stock—$11.0 million

Funds equipment safety items such as baggage rack restraints, seat locks, and locomotive recorders, as well as continuing commitments for new diesel and electric locomotives and Superliners.

Stations/On-Board Services—$6.0 million

Jointly funded state-Amtrak projects will be funded from this amount. Amtrak vigorously encourages joint participation in these projects to expand the amount of funds available for these investments. These funds will also cover construction of new tracks, platforms, and canopy work at Washington Union Station as part of Amtrak's commitment to upgrade this facility.

Information/Communication Systems–$1.4 million

These funds will provide Amtrak's portion of three joint participation projects including constructing the West Side Connection, upgrading the track infrastructure at Penn Station, New York with the Long Island Railroad, and installing continuous welded rail (CWR) in the San Diego Corridor.

Other Improvements—$2.0 million

Funds the FY89 capitalized payments for three programs for acquiring vehicles essential for sustaining Amtrak's operations and maintenance activities on the NEC and other locations in Amtrak's system.

Projects Funded by the Capital Grant:

The $72.6 million capital grant will be invested in projects that continue to reduce Amtrak's operating costs, improve productivity, protect the federal investment in the NEC and increase revenue generating potential by upgrading service quality. Generally, these projects produce internal rates of return (IRR's) averaging about 20–40 percent. However, many individual projects will produce much higher returns. Funding of all these projects is essential if Amtrak is to improve its services while reducing its dependence on the federal subsidy.

More detailed descriptions of these projects follow:

[Average estimated IRR]

Rolling Stock—$16.0 million

Includes programs to modify Amfleet and Superliner equipment and locomotives to reduce equipment maintenance costs, increase fleet capacity and reliability and provide service quality enhancements. Also includes acquiring new mail/baggage/express cars and Capitoliner cab car conversions..... 40

Maintenance Facilities—$14.5 million

Upgrades facilities at Sunnyside Yard, New York, Beech Grove, Ind., Bear, Delaware and Rensselaer, New York to improve efficiency and reduce costs..... 20

Stations/On Board Services—$4.0 million

This amount will fund station projects to improve safety and service quality. Also covers commissary, crew base, and mail handling facility projects..... 25

Information/Communication Systems—$13.2 million

The programs funded include replacing aging reservation system computer terminals, acquisition of new hardware to accommodate growing data processing requirements and other acquisitions to improve efficiency and reduce costs..... 35

Right-of-Way—$17.1 million

These funds cover recurring requirements to sustain the track, signal, catenary, bridge and tunnel infrastructure of the NEC, as well as fund the acquistion of maintenance support equipment. Other investments will extend NEC fencing and upgrade water and sewer systems at several locations. The main thrust of these programs is to maintain the NEC at its existing service levels. The prime benefit of these actions is to avoid higher maintenance costs in the future that would result if these investments were to be deferred..... 20

Other Requirements—$7.8 million

Projects in this category include environmental and other business investments that improve the revenue/cost ratio and are necessary to conduct everyday business activities..... 20

CHART 10.—*National Railroad Passenger Corporation Northeast Corridor Improvement Project (NECIP) fiscal year 1989 budget justification*

[Dollars in millions]

This request for $30.0 million for FY89 NECIP funds includes $20.4 million currently included in the authorized $2.5 billion NECIP Program, plus $9.6 million for safety projects for which authorization is including in the pending Rail Safety Bill. Should this Bill not be enacted, Amtrak will seek authority to include this list in the $2.5 billion authorized NECIP Program.

The projects selected for funding in the proposed FY89 NECIP Program represent the highest priority requirements to improve the safe operation of the Northeast Corridor.

The major programs in the FY89 NECIP request are:

Installation of CETC and related signal upgrades between Wilmington, Delaware and Newark, N.J.—Phase I	16.0
Communication [1] and Signal system upgrades within the NEC to convert to color position signal lights, not included in FY88 appropriation	
Track improvements within the NEC to include installation of concrete ties, CWR, and undercutting, needed in FY89 to avoid installation of additional wood ties	2.4
Passenger [1] car modifications to install baggage and on-board equipment restraints, seat locks, and 480-volt receptacles. This will supplement the FY88 appropriation and will complete the installation of this equipment in NEC Amfleet cars	3.9
Locomotive [1] modifications to include event recorders and cab signal/speed controls on switchers. This will supplement FY88 appropriation and complete the program	1.5
Facility improvements at the New York Sunnyside Yard to complete new engine house	2.0
Total fiscal year 1989 NECIP request	30.0
[1] Safety-related project recommended by NTSB and authorized in pending rail safety bill.	4.2

[The following information was subsequently received for the record:]

QUESTIONS OF THE CHAIRMAN AND THE ANSWERS THERETO

Question: Mr. Claytor, I know you are aware of the considerable concern on the part of South Carolinians, regarding the proposal by CSX to discontinue its current level of daily through-freight service between Hamlet, North Carolina and Columbia, South Carolina, and the safety implications of continued Amtrak passenger service on this segment of track. Now, I understand Amtrak is continuing its negotiations with CSX and other railroads to explore alternatives for maintaining as much of this service as possible. Would you please bring me up to date on the status of these negotiations?

Answer: Amtrak is continuing negotiations with CSX, the State of North Carolina, and Norfolk Southern Railroad regarding a reroute of the Silver Star. It is unlikely, however, that any rerouting will occur before early 1989.

As you know, Amtrak was informed by CSX that substantially diminished freight traffic on old Seaboard Airline route between Raleigh, NC and Columbia, SC had made it necessary to significantly downgrade the level of maintenance on the route. While some local freight service would be continued, portions of this route would have no service at all, and Amtrak would be the only train operating from Raleigh to Columbia. The cost to maintain this line solely for a pair of passenger trains would be substantial. CSX requested that Amtrak reroute its Silver Star between New York and Florida over the CSX eastern main line through Fayetteville, Florence and Charleston.

Amtrak notified CSX that it would be impossible to make any change in route this spring, that moving the Star to the CSX eastern main line would not be feasible, and that any change would have to await careful studies of various alternate routes. While CSX and Amtrak have a contract that calls for continued Amtrak service over existing routes until 1996, it is important that any decision Amtrak makes be consistent with its ability to establish and maintain on a long-term basis a healthy national route structure that could be used well past 1996 and into the next century. Outside the Northeast Corridor, most of Amtrak's passenger service must be operated by contract over the country's freight railroads, and it is important that this partnership relationship be continued with each side recognizing the needs and requirements of the other. Amtrak will accordingly work with CSX to find an alternate route that will continue to provide satisfactory passenger service to key points in North and South Carolina, while enabling CSX to achieve critically needed savings in its freight operation.

After studying a number of different options, Amtrak believes the option that would be preferable would be to operate the

Silver Star over the Norfolk Southern route from New York and Washington through Greensboro and Charlotte to Columbia, SC, and over the existing CSX route of the Silver Star from Columbia to Miami and Tampa, with connecting Section 403(b) service between Greensboro and Raleigh. The advantages of this route would be:

a) Direct service between Florida and Northeast Corridor points through Charlottesville and Lynchburg, VA, and Greensboro, High Point, Salisbury and Charlotte, NC, cities which are currently served only by the "Crescent" between New York, Atlanta and New Orleans, and only at inconvenient late night and early morning hours through North Carolina. If station facilities are made available, a stop could also be made at Rock Hill, SC.

b) Continued service both to Florida and to the Northeast from Columbia, SC.

c) A Section 403(b) train between Greensboro and Raleigh which would provide direct rail connections with the rerouted Star for service from Raleigh, Durham and Burlington to and from Charlotte, Columbia and Florida destinations and intermediate points. If operationally feasible, Amtrak would prefer to have this train continue through Raleigh to Selma, NC, with connecting through coaches on the Palmetto to Richmond, Washington and New York. If schedule constraints make this impossible, and the Section 403(b) train has to terminate at Raleigh, a dedicated bus between Raleigh and Selma would provide this same service between Raleigh and northeastern points via the Palmetto at Selma.

d) In addition to the foregoing, a dedicated connecting bus service would be provided between Winston-Salem and Greensboro for convenient connections for Winston-Salem passengers to and from Florida and intermediate points, as well as to and from Washington, New York and the Northeast via the rerouted Silver Star. Winston-Salem passengers would also be able to make connections to Burlington, Durham and Raleigh via the proposed Section 403(b) train. This would be a wholly new service for Winston-Salem.

The reroute option which we are considering would require a commitment of capital funding to provide a track connection between Norfolk Southern and CSX north of Columbia, and miscellaneous other improvements to accommodate this new rail passenger service. Prior to making a final decision, Amtrak must reach an agreement with CSX to supply the necessary capital, and with Norfolk Southern to operate the Silver Star over their route.

On April 11, Amtrak and North Carolina Department of Transportation officials met to discuss the reroute alternatives and proposed 403(b) service. Amtrak is currently developing cost details to submit to the state.

Also on April 11, CSX notified Amtrak that it is continuing to pursue the Carolina reroute, including construction of the Fairwold Connection at Columbia and such other reasonable capital work identified by Amtrak or Norfolk Southern as essential to the reroute. CSX believes it is unrealistic to expect completion of the connection before January 1989; Amtrak has told CSX that it is not practical to consider rerouting the trains until after the connection is in service.

Norfolk Southern and CSX have been meeting with the City of Columbia. All parties have been made aware of the forecast that no changes in service will occur before 1989.

Question: You suggest that Amtrak's chronic lack of capital will make further financial and performance improvements difficult and could result in a decline in service. Do you believe that your FY 1989 authorization request is sufficient, and if not what do you suggest will result from the underfunding?

Answer: In these times of fiscal constraint and deficit reduction, Amtrak is continuing its policy of reducing its dependence on federal grants. As such, Amtrak's FY89 capital plan of $103 million will provide the minimum funding necessary to cover essential safety, contractual and operating needs. It includes no major new equipment acquisitions and has significantly cut back on major upgrading programs for maintenance facilities, stations, and right-of-way improvements. While we will be able to sustain our services in FY89 at the $103 million capital funding level, continuing to defer major equipment acquisitions and facility upgrading programs will eventually hamper Amtrak's ability to reduce its dependence on the federal subsidy, sustain service quality, and could require Amtrak to reduce service levels to maintain safe train operations.

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Question:

There seems to be some difference of opinion over the issue of $2.4 billion dollars in labor protection obligations which you indicate eliminating Amtrak would trigger. Could you respond to the Administration's argument refuting the Federal government's liability for these labor protection payments?

Response:

Although the law is not so clear as to preclude differences of opinion, Amtrak believes that the federal government would be legally obligated to make labor protection payments in the event that Amtrak ceased operations because of termination of federal subsidies. The government's liability is predicated on the existence of a parent-subsidiary relationship between the federal government and Amtrak, evidenced by the government's control over Amtrak and ownership of all its voting stock. In the event of a bankruptcy, employees "affected by the discontinuance of intercity rail passenger service" would base their claim against the government on the facts that the United States (1) created Amtrak, (2) required Amtrak to incur massive contingent labor-protection obligations, (3) failed to capitalize Amtrak in such a fashion that it could meet those obligations, and (4) made those obligations due and payable by causing the total discontinuance of Amtrak's service. These facts establish a sufficient nexus between government ownership and control and the acts on which liability would be founded to pierce the corporate veil, thereby shifting liability to the government.

In addition, Amtrak employees might claim that the government is ultimately liable for payment of labor protection payments on the grounds that they reasonably relied on the assurance of Congress and the Secretary of Labor that they were guaranteed their "fair and equitable" protection "against a worsening of their positions with respect to their employment". 45 USC §§ 565(b)(c).

When this same question arose at our authorization and appropriation hearings three years ago, we sought the advice of outside counsel, who confirmed Amtrak's views on this issue. That counsel's opinion letter, together with a subsequent response to a letter from the Comptroller General of the United States to Senator Danforth, are attached.[1/] They explain in greater detail why the government may be held liable for labor protection payments.

1/ the attachments are in the Committee files

Question: "Amtrak has recommended that the Rail Passenger Service Act be amended to allow the corporation to transfer employees to new work locations rather than be required to pay up to six years of full salary under existing labor protection provisions. And that this change would give Amtrak more flexibility in changing routes to improve financial performance or take advantage of new markets. Have you considered a limited mileage expansion or a regional approach to this concept?

Answer: Amtrak is willing to consider restricting changes of residences of protected employees to regions. Such restrictions can best be worked out in conferences with labor if and when labor agrees to recognize the need for reform.

Question:

It is my understanding that Amtrak has been granted a waiver of certain U. S. rail passenger safety standards to test a European passenger train between New York and Boston. Some have questioned the safety implications of this waiver during the testing phase as well as its potential future application. Please Comment.

Answer:

The Talgo equipment does not meet all specific U.S. safety requirements relative to crashworthiness, but does comply with the U.I.C. (International Union of Railroads) safety standards, which in many instances are similar.

The FRA waiver has been granted with the following conditions:

1. That the Talgo train be inspected jointly by FRA inspectors and Amtrak inspectors prior to any testing and non-complying safety appliances be fully described;

2. That the train crews and all personnel involved in the testing be notified by bulletin in all safety appliance deficiencies on the Talgo train;

3. That any area of the Talgo train that does not have a proper safety appliance be stenciled or tagged "DANGER" indicating the deficiency, if this is deemed necessary by the FRA to provide additional safety;

4. That no person be allowed to ride on the exterior of the train while holding onto any fixture, unless such fixture fully complies with the Safety Appliance Standards;

5. That the Talgo train be switched and brought to a stop with a locomotive attached only, and under no circumstance is the train to be switched and allowed to move without a locomotive attached; and

6. That if any incident occurs directly related to the lack of safety appliances on the Talgo train, the FRA is to be notified within 24 hours.

I would note that the Talgo equipment would not actually be used in passenger revenue service, but will be tested by Amtrak and CONEG only.

QUESTIONS OF SENATOR PRESSLER AND THE ANSWERS THERETO

Question: Mr. Claytor, over the past seven years, Amtrak's federal subsidy has declined by 50 percent in constant dollars. During this period, Amtrak has managed to continue to provide rail passenger service. At what point in the future do you feel Amtrak could continue without the federal subsidy?

Answer: There is no rail passenger system in the world that makes a profit. However, in FY87, revenue from intercity train operations for the first time covered all of Amtrak's short-term avoidable costs. These are the direct operating costs -- such as train and engine crews, on-board staff, fuel and power, maintenance of equipment, reservations expenses -- incurred when a train is added or avoided when a train is eliminated. Five years ago, Amtrak's train revenues covered only 77 percent of short-term avoidable costs. In 1987, train revenues covered 103 percent of these costs. This dramatic improvement reflects success at operating more efficiently: targeting marketing efforts, reducing costs, and deploying resources to get the greatest possible value.

Congressional enactment of Amtrak's current legislative proposals involving Railroad Retirement, FELA, Railroad Unemployment and FOIA would speed up considerably our reaching the goal of covering long-term avoidable costs.

Beyond that, however, we must begin to address our infrastructure and capital costs. Our airline competitors get the great bulk of their infrastructure provided to them essentially through the Airport and Airways Trust Fund and general revenue funds. Interstate highway users essentially get funds provided through the Highway Trust Fund and general funds as well as a great deal of assistance from state governments. Yet, Amtrak is fully responsible for its infrastructure costs. These subsidies to other modes place Amtrak at a competitive disadvantage and limit greatly the amount we can charge passengers for transportation. As a result, unless there is a dramatic change in the economics of transportation -- such as a three-fold increase in gasoline prices -- it is unlikely that Amtrak will totally eliminate its need for federal financial support.

In summary, we believe that Amtrak will achieve a revenue-to-cost ratio of .70 in the 1990's; beyond that, it is difficult to predict Amtrak's revenue performance.

Question: As you know, we have been working to bring Amtrak service to South Dakota. Do you expect to expand Amtrak service to any of the six states not currently receiving rail passenger service?

Answer: We have no plans at the present time to expand service to any states not currently served by Amtrak.

Question: Amtrak currently provides service to 43 states. What states are not served by Amtrak?

Answer: The seven states not served by Amtrak are Maine, South Dakota, Wyoming, Oklahoma, Alaska, New Hampshire and Hawaii.

Senator EXON. Thank you very much, Mr. Claytor. We appreciate your remarks.

Let me go to some questions now that I have.

First, I notice, Mr. Riley, early in your opening statement you made a reference to the fact that the savings were necessary with regard to the budget cut which I think has been answered to some extent by Mr. Claytor's remarks that should we zero out and close down Amtrak, there would be a significant increase in expenditures rather than decrease.

I would like to have that understood for the record.

Also in that regard, you mentioned that if you did not make these savings that the administration has proposed by the zeroing out Amtrak, you would have to adversely affect such matters as the Air Traffic Control System.

Now, the Air Traffic Control System is basically funded out of the trust fund which we all know is some $5 billion to $7 billion in excess. In other words, we have money there for that.

Is that, in your opinion, a fair appraisal as indicated in your testimony of a way we could save some money if we closed down Amtrak, or in lieu thereof, we would have to hurt the Air Traffic Control System?

I suggest that that probably is not accurate since we have a very large surplus in the specifically funded matter as far as air traffic controllers are concerned.

Is that accurate?

Mr. RILEY. Well, let me take each question in turn. As to costing us money if it was eliminated, that is not the case. Even if all of the $2.3 billion that Graham referred to had to come from direct Federal subsidies, you would more than compensate for that by the time you hit the fourth year of zero funding under Amtrak, because Amtrak itself is consuming more than $600 million a year.

By the time you got to the fifth year of the five year budget cycle, you are gaining at least $600 million.

But it is false for a second reason. To the extent that labor protection payments were paid, and they would be, they would be paid out of the assets of the estate of the company itself, which has about $3.8 billion in book value. So as a consequence, the savings projected under this proposal are real.

One would net at least $600 million in direct outlay savings in the first year. And again, even if that were not the case, one would net $600 million in annual savings beginning in the fifth year.

As to the impact of this funding on other portions of the DOT budget, the reality is that we have a budget ceiling and we are right at that budget ceiling now, assuming zero funding for Amtrak. To the extent that any dollars were put into Amtrak or to the extent that we put them into our proposal, we would have to compensate for that by taking them out of other areas within the transportation budget.

Now, as the chairman knows, I do not budget for agencies other than the FRA. But the reality is that if $600 million were in fact appropriated for the next fiscal year, that will require $600 million in offsets from other portions of the DOT budget.

And they could come from any one of a number of places. The programs that I have listed are just a few. And while some of these

other programs are funded by user fees, which Amtrak is not, still in all they are part of our budget ceiling and there would have to be an offset.

Senator EXON. Well then, it is technically correct, Mr. Riley, but is it not also true that, were the trust funds moved off budget, as there is a considerable move to do right now, that defense that you have just raised would be eliminated, like a mirage?

Mr. RILEY. Well, if all of these items were moved off budget, of course it would change the premise. But it would not change the reality of it.

I guess I would just make two comments on that. The comments I made are predicated on the budget system as it exists today.

Secondly, if this trust fund was moved off budget it would not change. It might insulate the air traffic control system. That is correct, it would insulate the air traffic control system.

Senator EXON. You specifically mentioned them and it caught my attention because, since I serve on the Aviation Subcommittee, I know that that is an insulated fund, yet it is not.

Maybe to end this discussion, we could agree that your reference to the air traffic control system may have not been a valid one from the standpoint of where the money would come from and how it would affect the budget.

Mr. RILEY. With the system structured as it is today, with the trust fund on budget, it is valid. If the trust fund were moved off budget, obviously that would change the situation, but it would still require us to take $600 million from other areas, be it Coast Guard safety programs—the basic point I am trying to illustrate, Mr. Chairman, is not necessarily a specific tradeoff against any one of those programs but the fact that with an enforceable budget ceiling, every one of these $600 million is in fact a tradeoff against other priorities.

Senator EXON. Mr. Riley, in testimony before the President's Commission on Privatization—I would just add a little editorial comment, that everybody is for privatization. That is one of the catch words today. I mean, who can be against privatization, because if you are against privatization you are supposedly against the free enterprise system.

But in any event, in testimony before the President's Commission in that regard, you indicated that Amtrak's financial condition precludes it from being a candidate for privatization in the near term. At least that is the information I have.

Is that information accurate?

Mr. RILEY. It is accurate. I think it ought to be self-evident that a company that is losing $600 million a year is not a likely target for privatization as a unit. There may, however, be elements of the company that could be privatized.

Senator EXON. Can you further explain what you meant in that area? And secondly, can you indicate what specific effort, if any, has been made to determine what would happen to Amtrak's routes in the absence of Federal subsidy? In all practical aspects they would be gone, would they not?

Mr. RILEY. In many cases they would be. Answering both questions, I think it ought to be, as I said, evident that a company

which loses $600 million a year is not going to be a candidate for privatization in the near term.

It has been pretty clear for quite a while that we would consider an offer from any responsible buyer and none has come forward.

However, there may be portions of the system which would be potential targets for privatization. Let me give you a couple of examples. I think Amtrak has some excellent shops, excellent shops. One is at Beech Grove, Indiana, for example, which I think would be attractive either to private railroads or to non-rail supply company entrepreneurs.

Amtrak does in fact have certain routes, like the Autotrain, which I believe could be operated independently of the system or which could be attractive to railroads particularly the two southern railroads because there is some infrastructure overlap in the auto carrier business and there is backhaul potential.

Along the Northeast Corridor, there are stations that could be privatized which are positioned at attractive places that would be conducive to future development or use as multi-modal transportation facilities.

The bottom line to it is this: No, the system as a whole could not be privatized. Unquestionably, there are some lines that would not continue in service unless someone else chose to subsidize them. There are other areas of the system which could, in fact, in all likelihood be shifted to private ownership.

I think it is important to recognize, however, that the position that we have articulated this morning, or at least attempted to articulate, is a fiscally driven position. What we are really saying is we cannot afford to do this any more.

We will do whatever we can to privatize any portion of the system that can be privatized. But to the extent that service is discontinued, it is better to face that transition once than to face the tradeoffs involved in annual funding at this level.

Senator EXON. Mr. Riley, since your expert service as a staff person on this Committee and the excellent job that I think you have done in the Federal Railroad Administration, during all of your experience have you seen of recent date any outright large-scale abandonment of a railroad line? Have you seen any total abandonment of a railroad line?

Mr. RILEY. I do not think we have seen a full-scale abandonment of a large line. Small segments, but no abandonment of a large line.

We have seen one railroad, the Rock Island, partitioned and sold off. But I do not believe we have seen a full-scale abandonment of a line.

Senator EXON. I suggest that one of the reasons for that is because of the way the laws are written and the way the labor contracts remain in force, it is not in the financial interest of a railroad to abandon a major line. In other words, they may go to short lines, they may go to other procedures.

But in reality, the way the laws are written today and in effect and the contracts that are in effect, it is not in the financial interest of large railroads to abandon outright major portions of their railroad. Is that true?

Mr. RILEY. I think there is truth to that. I think in the era when I was working on the short lines back in Minnesota, it was in their interest to abandon a line, because by abandoning a line and allowing service to deteriorate they could lay off employees under the decline of business clause and avoid protection.

But I think that the Gulf and Mississippi decision changed that and it became more advantageous for the railroads to establish a short line or to sell the line, as you suggest, than it was to abandon it. I think that is an accurate assessment of the situation.

Senator EXON. But you still endorse—despite that fact, you still endorse what I consider to be a short-sighted proposal by the Administration to abandon the only passenger service on rails that we have, notwithstanding that the free enterprise system that we refer to as privatization found it not wise financially to abandon lines.

And yet, the Administration is proposing that exact prescription on Amtrak. It does not ring true to me.

Mr. RILEY. The losses being sustained on the freight lines that have been the subject of potential abandonment are not comparable to the losses being sustained on Amtrak. Amtrak is losing $600 million a year. Those are staggering numbers.

And they are so high that, even if full labor protection obligations of $2.3 billion were paid, the government would still save money within the five year budget cycle. And I think that is what makes it different.

Senator EXON. Mr. Riley, there was a recent story that indicated that the British government asked Parliament for about three billion pounds, which is the equivalent of about $5 billion in our money, for capital improvements to the British rail system.

This leads me to the possible conclusion—maybe it is erroneous—but the possible conclusion that the contribution of $600 million for next year for passenger train service in America is somewhat of a bargain compared with what the British Government is doing.

Is there any comparison between the two or not?

Mr. RILEY. Well, I guess my knowledge is a little bit limited because I have not seen the British system. But if you are comparing a $3 billion capital investment figure to a $600 million operating subsidy figure, obviously they are two different things.

Senator EXON. It was $5 billion.

Well, I think it does, because I think that Mr. Claytor made the point in his statement and in the statement submitted for the record that under his leadership and direction we have got this Amtrak system back on track, so to speak, from the free enterprise system.

And they are not asking us for money for capital expenditures. You know, you are talking about which side of the balance sheet you are going to insert that money. Regardless of which side of the balance sheet you insert that money on, it is coming from the taxpayers.

Therefore I think my point is valid, that if the British are spending $5 billion on capital construction, I think it is relative that we are only spending $600 million to keep the only rail passenger service going we have in America.

But you know, you and I are friends and we could probably disagree on that. But I wanted the point to be made.

I would like to turn to you now, Mr. Claytor. Thank you for your opening statement.

First, I listened with great interest to Mr. Riley's explanation of why the Administration's proposal made sense. I suspect that you do not agree and would like to give you an opportunity at this time to respond to any of the statements that were made by Mr. Riley.

Mr. CLAYTOR. Well, Mr. Chairman, first, the possibility of selling off bits of Amtrak. In my opinion, no bit of the operating end of Amtrak is salable. Clearly, everything outside the Northeast Corridor would be stopped. There is no possibility that anyone would take that.

I base that on my own experience. In fact, the railroad industry ran passenger service until 1971, and it was largely responsible—the losses incurred were heavily responsible for the Penn Central bankruptcy, among other factors.

We on Southern Railway decided not to turn our very limited passenger service over to Amtrak. My management was against operating our own passenger service and I overruled them. I felt that we ought to make the effort to see if we could not manage to come close to breaking even on a first class passenger service of very limited proportions, the Southern Crescent, which operated between Washington and New Orleans.

We tried. We had a loss the first year of about $3 million. And I said, making this the best passenger service in the country at a time when Amtrak was having great difficulty and having rather poor service is worth it as a public relations operation.

And we ran that train and we ran the best passenger service in the United States for about 7 or 8 years. I did everything I could conceive of. We ran the most efficient freight service in the country, so we had a team that knew how to run an efficient railroad. And I said, let us do everything you can to make this passenger service at least break even.

Well, as inflation occurred the losses increased. Our business was good, our service was superb.

I retired in 1975. By 1977 we were losing $7 million a year on that one train. And the management concluded, as I would had I been there, that the stockholders could not afford that any longer.

We turned it over to Amtrak, incidentally, with a national system which Amtrak had. And with Amtrak's improvement in its management, we are now losing only about a fraction on the same train that Southern Railway lost in 1977. We are doing a much better job, but we are able to do it because it's part of a national system.

No one can take any part of this and do anything but liquidate it. And when you get to the Northeast Corridor we have a very similar situation. It is not as serious. We are able to operate practically all of our Northeast Corridor passenger trains with revenues exceeding their above the rail operating costs.

But the infrastructure cost of maintaining a high speed railroad, electrified to New York, is such that our actual loss on the Northeast Corridor is between $200 and $250 million a year. Now, nobody is going to pick that up. We tried that.

When this first came up, it was suggested that the states should buy the railroad and operate it. No state was interested. No one will be interested. If we stopped the railroad the scrap value of some of our real estate would be significant. There would be a certain amount that could be realized there.

We obviously could sell the 30th Street Station in Philadelphia for other purposes. There is other real estate that we could liquidate. But there is not any rail passenger operation that in my opinion anyone could run at a profit today.

I would hope—as I have mentioned in my privatization testimony, as we go down the road the cost of fuel is going to rise inevitably. How much, how soon, we do not know. But I would say that if the cost of fuel multiplied by three or four times, as it now is in Europe, we would come pretty close to breaking even on a major part of our system, because we are the most fuel efficient way to move people.

The cost of air transportation would skyrocket. We could then raise our fares to come pretty close to covering our costs, and we might make it.

But that is in the long distance future. In the meantime, this country needs an inter-city national rail passenger service. We have proved that. We need it for small communities in the West. We need it for big communities in the East.

And to me it would be an absolute crime to destroy this. If Amtrak is gone, it is gone forever. We have got $3.5 billion of assets. They would not be worth much. Most of the assets are not usable if you do not have a passenger service.

They would be gone. They would be scrapped, they would be sold abroad, or whatever. And we would never be able to put it back together. You cannot unscramble an egg.

The last item I would like to mention is the Autotrain. The Autotrain is doing very well. We are able to make an above the rail profit on that and a substantial one. Still, if we fully allocated our costs it is not breaking even, but it is getting close.

But private enterprise established that service, ran it at a profit for a short time, and then lost their shirts and went bankrupt—the same train, the same route, the same everything.

We are able to do this as part of a national system. We have no specific costs, for instance, special costs just for reservations. The reservations on Autotrain are thrown into the reservations of our national system. If we had to have a reservation system for the Autotrain alone, the cost of that alone would probably put it under.

So trying to pick one or two things and trying to sell them, I do not think even the Autotrain could make it.

So my feeling is this is a matter of national policy and it is important national policy and it is a one-time decision. Once we decide to let it go, it is gone forever and we will never get it back. That is my feeling.

Senator EXON. Is it true, then, as I think it has always been, that if we would accept the administration's proposal to zero out Amtrak funding, it is likely that through privatization we would be able to possibly see a continuation of passenger rail service in the Northeast Corridor and in the Northeast Corridor only?

The rest of the nation would be without?

Mr. CLAYTOR. I am quite clear that that is so. I am also not at all clear that we would maintain any intercity passenger service in the Northeast Corridor, because the overwhelming costs I think are not prepared to be picked up by the people who would otherwise like to.

New Jersey Transit and SEPTA, for instance, would be very hard put to maintain the entire railroad that they have to operate over all on their own, and I doubt if they would come up with the necessary money to do it. And that would be a disaster for the commuters, as well as for the intercity passengers.

One must keep in mind what the other costs are. We carry 35 percent of all of the passengers by air and rail between Washington and New York, just the end cities. We carry 70-odd percent of the passengers between Washington, New York and the intermediate cities. There is almost no other way to go by public transportation to the intermediate cities between Washington and New York.

If that service stopped and these people tried to go by air, the air facilities would be overwhelmed. When Mr. Riley says there is plenty of capacity, he is counting all the airplanes that are not flying between 1:00 a.m. and 6:00 a.m. in the morning.

You do not commute to New York between 1 a.m. and 6 a.m. in the morning. You all go at the same time. Washington National Airport could not possibly handle even the additional traffic that we would give to the airlines between Washington and New York alone, let alone the intermediate cities.

And what would happen? We know what would happen. Money is no object when you have to do something in aviation, apparently, and so we would have to build another airport in Washington. We would probably have to build another airport in New York.

We are now talking multiple billions, like $20 billion for a new airport, plus all of the associated highway access facilities.

That does not seem to ever bother anybody. We spend that kind of money on the highways and the airways without batting an eye. And yet that is exactly what we would trigger if Amtrak were not funded.

We are taking thousands of cars off the road in areas which are already saturated with cars. That I think is a major, major policy development that would be reversed if we were removed, right here in the corridor.

But I do not think anybody is going to step in and pick it up.

Senator EXON. I think what you are saying is they would not step in and pick it up as far as continuation for a long period of time.

Mr. CLAYTOR. That is what I mean. They would have to pick it up with alternatives which are far more expensive and far less satisfactory.

Senator EXON. Or a speculator might indeed take a look at the real estate values in the Northeast Corridor, which are sizable. If you could find a real estate development individual, I would suggest taking a look at the Northeast Corridor, because there are some key land values that could be developed there and the money would be made on real estate, rather than providing passenger service.

Mr. CLAYTOR. That is precisely the way I feel about it, too, Mr. Chairman.

Senator EXON. I thought your point was well taken, Mr. Claytor, with regard to the overall transportation system in America. There was recently a headline in the New York Times, I think on Tuesday of this week. The headline was: "Air fares rise for many travelers and big carriers dominate the market."

Now, I do not think there is much question that Amtrak provides not only a service for those who would prefer to travel by rail, but they also have an effect on keeping air fares competitive.

And I notice that the advertising that Amtrak is doing in this area plays, I think quite effectively, into that area.

Mr. CLAYTOR. We are trying, yes, sir.

Senator EXON. So is it not true that by providing an air passenger service we also help out in keeping down the monopoly that the few largest air carriers would have if that service is eliminated?

Mr. CLAYTOR. I think that is substantially so, yes, sir.

Senator EXON. I appreciate the comments of both of you. We have some other questions for the record that we will send over to you and ask you to respond as quickly as possible.

Before you leave, though, is there any closing statements that either you, Mr. Riley, or you, Mr. Claytor, would care to make at this time?

Mr. RILEY. Well, I think this is about the third or fourth time we have been before a committee in the Senate on this issue. I think the position that we have laid out is reasonably articulated in our statements and we will continue to submit anything for the record that the committee might be interested in.

I mean, many of the issues that have been raised here—the capacity of the air system to sustain a transfer of a million passengers, potential to operate certain lines—are covered in that data. So I will submit it to the committee.

Senator EXON. Thank you, Mr. Riley.

Anything further, Mr. Claytor?

Mr. CLAYTOR. Mr. Chairman, I would like to say first, I would like to thank both you and Mr. Riley for the nice things you said about me. But I want to emphasize that Amtrak's success is not due to anything that I have done. Amtrak's success primarily comes from the fact that we now have a really first class team. We have a top flight management team.

I have dealt with a good railroad before and I think this is one of the best management teams I have ever been associated with, top to bottom. We also have a great work force. We are working closely with our labor friends to accomplish joint objectives.

I think labor relations are terribly important to me, and I want to thank the unions that we have worked with, that have enabled us to make the breakthroughs that have been a big part of our success.

We have a top to bottom management team, and one of the things we are most sincerely directed toward accomplishing is greater safety, not just for our passengers but for our employees, too.

I am determined that within a very short time we are going to win the Harriman Trophy for the safest railroad in the country.

We started at the bottom of the list. We are now two-thirds of the way down the list, but we are coming up.

Southern Railway started at the bottom and we won it four times, and we can do it on Amtrak because we have got that kind of a team. And I just want to emphasize that this is a team that is doing this, not any one person.

Mr. RILEY. If I could refute a few of those comments, I would like to do that.

Senator EXON. Certainly.

Mr. RILEY. That team did not just fall into place at Amtrak. It had to be assembled by somebody. It had to be given vision, it had to be given direction. I really do believe that this industry that has produced some extremely memorable figures over time and, when we look back over the railroad history of this century which someone will surely write, I think Graham's name will be there in a very prominent way.

I think what he says is absolutely right about what labor has done. Amtrak has the best work rules in the Nation, other than the Springfield Terminal work rules only, only the Springfield Terminal work rules—for those who are working.

I may be sorry I raised that topic. Only the Springfield Terminal agreement has work rules that are in any way comparable to what Amtrak has. And I think that the labor organizations who have worked with Amtrak deserve a lot of credit for working as full partners in trying to make the system work.

On safety, Amtrak is often the victim of accidents. They are often the train that is struck, not the striking train. And unfortunately, they are reported as Amtrak accidents and the reality is that Amtrak was pretty close to the bottom in class one railroads in safety performance seven, eight years ago. They are now fourth best in the Nation.

And Harriman gives out three medals. They just missed. They are getting there. The safety improvement has been dramatic.

The final point I would want to make is something I wanted to say earlier and it is a topic that touches this issue, but touches some others and is very controversial. Let me say it anyway. I do support the proposal that Graham has made to do a pilot or a test program on FELA with Amtrak.

But I do not support it for the same reason that Amtrak proposes it. It would save them about $16 million a year. And we have looked at those numbers, we have looked hard at them. I think it would save them $16 million, but that is not why I support it.

I want to lay something on the table—really not so much for comment now—for future thought. I shaped my attitudes on this kind of system when I was a practicing trial lawyer. I bought two houses off bills like FELA. The old fault-based compensation systems are dinosaurs. They have been eliminated just about everywhere in the country and replaced with no-fault.

The reason they have been replaced with no-fault is twofold. One of them, on the administrative side, is that under fault-based systems there is unnecessarily litigation as to fault which siphons off too large a percentage of the injured party's recovery into the pockets of lawyers like me.

And I came to believe over the years that I practiced that lawyers did in fact take a disproportionate share under fault-based systems by litigating issues that didn't need to be litigated.

Secondly, under fault-based systems there is no incentive to help rehabilitate the injured party until after the trial and fault has been established. Without question, under a no-fault system the injured party receives rehabilitation sooner, and he receives more thorough rehabilitation because there is no incentive to delay pending an adjudication of fault.

And the fact that no-fault systems are better for both the injured and the company that has to pay, has led to changes to no-fault all over the country. I did not favor no-fault before I was a lawyer. I bought all the other arguments.

After I became a lawyer I changed my mind. I support Graham's proposal both for fiscal reasons for Amtrak and because I think that both the companies and the injured parties would be better off under a no-fault system.

Senator EXON. Thank you, Mr. Riley.

I thank both of you for your testimony. Before I excuse you, I wanted to indicate that I have received information that Senator Karnes from Nebraska has a statement that we will accept for the record. Additionally, there are some questions that will be submitted to both of you, and we will include those in the request.

In excusing you, I want to thank you again for being here and your excellent testimony. And I just want to say, Mr. Claytor, that obviously you have great friends in both the chairman of the committee and Mr. Riley.

The difference is that I want you to stay there and keep working, and Mr. Riley would like to salute you in absentia.

Mr. RILEY. We want to give him an even bigger challenge.

Senator EXON. Thank you very much.

Mr. CLAYTOR. Thank you very much, Mr. Chairman.

Senator EXON. And we now call on our next panel: the Honorable Hal Smith, Mayor of Hastings, Nebraska; Mr. William T. Druham, the Program Director of the American Association of State Highway and Transportation Officials.

Gentlemen, welcome to you both. Mayor Smith, I know you have come a great distance to be here on a matter very important to Hastings, Nebraska. You not only represent Hastings, Nebraska, and the other cities that would be adversely affected if we should zero out Amtrak, but you also represent the mayors of cities up and down that vast route across America that Amtrak serves so very favorably.

So I would like to call on you, Mayor Smith, at this time for your testimony.

STATEMENT OF HAL SMITH, JR., MAYOR, HASTINGS, NE, ACCOMPANIED BY MICHAEL SULLIVAN; AND GERRY WHELAN, COUNSELS

Mr. SMITH. Thank you very much, Senator.

As you said, I am the mayor of Hastings, NE, and I have also brought with me my city attorney, Mike Sullivan on my left, and also Gerry Whalen, who is attorney for the utilities. These two

people are Irish Catholics and I am afraid that this is going to be the last time that we see them show restraint and control for the rest of the day.

Hastings is blessed with daily service both east and west by Amtrak. We are on the main line of the Burlington Northern railroad tracks. We became a community when the Burlington Northern built the tracks, and then Union Pacific cross those tracks north and south, and our history developed as a railroad community.

Until the mid-thirties, the principal mode of transportation throughout the state of Nebraska and particularly for citizens of Hastings was by railroad, the Burlington route east and west and the Union Pacific north and south.

Our State road system was much improved during the thirties, and as automobiles became more popular fewer people used rail transportation. After World War Two, of course, air transportation further eroded the substantial base the railroad had always enjoyed.

We are all aware of the fact that passenger service throughout the United States dwindled because of patronage dwindling. However, there are always a sustaining core of people who need the railroad for transportation.

Events of the 1980's have made rail service in communities served by Amtrak even more essential. We have just recently lost bus service to our community. Air service is still there, but in our opinion it is not reliable nor is it quality service.

We have a twin engine Cessna that flies to Denver after stopping at several communities. Almost any change in our weather will bring flyovers to Hastings, Nebraska. We do not have the sophisticated equipment to have planes landing in Hastings all the time.

So if we have to be someplace and we know that we have to be there, Amtrak is the service that we use to assure that we are going to arrive at our destination.

Nebraska, like all the west, was developed from east to west. Our rivers run from west to east. Our highways by and large run east and west. And of course, our important railroads run from east to west.

As a result of this, most business and commerce have an east-west orientation. We are far closer economically, politically, and socially to Denver than we are to Minneapolis or to Kansas City. Omaha is much more important to us than Wichita.

Therefore, our rail transportation east-west is critical to the economy and to the social life of our community. Amtrak will never replace airlines as a principal supplier of long-range passenger service in America, but for many citizens in sparsely settled portions of our country rail passenger service is the only service, and these folks do not have the luxury of choosing between a car, a bus, a plane, or Amtrak. Amtrak is the only game in time.

Next to Florida, Nebraska has the oldest average population of all 50 states. Within the state of Nebraska, the population of Hastings is the oldest. We have one nursing home alone which has over 2,000 residents. We are also the home of the area's largest and only full-service hospital, the Mary Landing Memorial Hospital.

These two factors, being the medical service center and the advanced age, contribute to the fact that many of the people who visit Hastings, Nebraska, do not drive cars. The loss of bus service hurt both our hospital and the nursing homes in the area.

The loss of rail service would further cripple the ability of people in the south central Nebraska area to visit medical specialists and friends and relatives in the nursing homes.

We in Hastings are aware of the numbers on the Amtrak system. We know that the only portion of the system which breaks even or makes money is the so-called Northeast Corridor.

Some have advanced the argument that Congress should support only that part of the system which is along the Northeast Corridor. Such an argument defies the very nature of the union which was created 200 years ago. Those people might also say that, because Texas, Oklahoma, and Louisiana have all the gas and oil in this country, that they are free to charge any price they want in interstate commerce.

I suppose we in Nebraska could make an argument that since we grow and feed enormous numbers of cattle and hogs, that we should erect economic barriers and, with Texas and Iowa, create some sort of cartel.

Those who would save the Amtrak system for only the Northeast Corridor would balkanize the United States of America. We need people in Nebraska to tend the cattle herds that roam our beautiful sand hills. We do not need many people, but those who live in small and large cities must have people attending to their lonely daily chores in Nebraska. They are entitled to good transportation as well as the rest of the United States is.

The bulk of the population of the state of Nebraska is contained in the extreme eastern portion, where we find Lincoln and Omaha. Most of the gasoline tax collected by our state is collected in four or five eastern counties. But we do not build roads based upon a formula controlled by the source of collection.

We have an obligation to build good roads throughout the state, even if the gasoline tax revenues do not justify it. We must have people throughout our state to have a whole economic and political community.

I look at the United States of America in the same fashion. Simply because there are a lot of people needed to run Boston, New York, and Philadelphia does not mean that all of the transportation services in America should be located in one way to serve only those fine cities.

In order for the people of those cities to have a constant reliable supply of wholesome, reasonably priced food, they must keep people in the Sand Hills and in the corn belt of Nebraska. In order to do that, we must have decent transportation.

We will never have superior rail transportation in Nebraska, but we have a right to insist upon an irreducible minimum of service. The reauthorization of funds for Amtrak is vital to the preservation of our 200 year old Union in the broadest sense of the word.

I thank you for allowing me to speak here today, Senator, and I would be glad to answer any questions.

Senator EXON. Thank you very much for your excellent testimony, and I have a question or two for you after we hear from the other witness at the table.

Mr. Druhan, thank you very much for coming over this morning. We are looking forward to your testimony.

STATEMENT OF WILLIAM T. DRUHAN, PROGRAM DIRECTOR, AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS

Mr. DRUHAN. Thank you, Senator.

If I may, I would like to start with a personal note. I did not know until I entered the room that Mayor Smith was going to be here. For many years I wondered, how can I thank the people of the city of Hastings for the courtesies and assistance given me. On the night of February 12, 1972, I was on the Amtrak Zephyr train approaching Hastings and it had a wreck at 80 miles an hour.

You have no idea, the emergency services that that little town provided us, the hospitality of the citizens that came to the rescue of every one of us on that train. I always wondered, how can I thank the people of Hastings. Mayor, would you please take that back to them.

Mr. SMITH. I would be more than happy to.

Mr. DRUHAN. We were more than surprised, but when you are on a train wreck you do not have time to thank the citizens who are helping you. So I would like to do that at this time.

Senator EXON. Thank you. That is very nice.

Mr. DRUHAN. This is quite a coincidence, that this would come up.

Mr. Chairman, I would appreciate it if you would put my formal statement in the record so I do not have to read it.

Senator EXON. Without objection, so ordered.

Mr. DRUHAN. I could summarize it at this point.

A lot of the statements that have been made in the statement have been made previously, so I do not want to take your time to repeat them. We are here, like your opening statement said, to support an authorization for Amtrak in an amount sufficient to operate the present system.

We do not know what that amount is, but it should be sufficient to operate the system. In particular, we want to have the continuation of the section 403(b) trains. They are the trains that are supported by the states in conjunction with Amtrak, the so-called feeder system.

We subscribe to a lot of the remarks that were made by Mr. Claytor as to the necessity to reduce their funding through legislation. We appreciate the fact that they have reduced their funding needs in recent years. I would reiterate like you and Mr. Claytor were commenting, that Amtrak was started in 1971 because there had to be something done about the tremendous losses in the passenger service for the railroads and there had to be a continuation of a national system.

In my judgment, the only thing that has changed since that time is that the cost has gone down. In the words of one famous man, I think we ought to stay the course and not get out at this point.

After saying all the nice things about Amtrak, then, we are also here to emphasize the point that we are opposed to funding Amtrak out of the highway trust fund. The highway trust fund was formed for the specific purpose and the specific commitment to the users that it would be used solely for highway purposes.

You commented on the air trust fund. It is a similar situation. It is user supported for a specific purpose. We cannot see that we could abrogate that responsibility.

By the same token, we do not believe that we should subscribe to the suggestion that an additional penny be put in the pot and then drawn down for the purposes of Amtrak. The reason we say that is that the States are having difficulty enough trying to raise their own funding for their own roads.

They do that through the user fee and gas tax. But differently than the Federal Government, most of the money that is raised in the gas tax is not in transportation trust funds. The funds are ususally used for transportation purposes, but not necessarily. They can be used for any number of purposes.

I quote you a statistic in my testimony that in 1987 33 States attempted to raise their gas tax and only 14 succeeded, which is an improvement from the previous year, when only eight States were able to increase their gas tax.

States cannot increase their gas tax if the Federal Government increases its gas tax, for whatever purpose. If it is increased for the purpose of the highway fund, then we do not object because then States will not need to generate as much as funding as is presently done.

We are proposing a status quo.

Let me move now to the 403(b) trains. There are six States now that support these trains. Under the formula States pay 65 percent of the short term avoidable loss and 50 percent of the associated capital costs.

We are here to ask the committee to give an interpretation of the congressional intent with regard to the division of costs between the States and Amtrak. In accordance with the law Amtrak defined short term avoidable loss and "associated capital costs." They included capital costs items of depreciation and interest.

We do not believe these items should be included in associated capital costs. They are not costs to Amtrak. They do not reduce their capital equipment request because they receive depreciation from the States. The interest is not used or not available to be used for other items of investment, which is one of their contentions. They cannot do that. We do not believe that was Congress' intent.

Another problem we have is that, like Mr. Claytor mentioned, a number of his trains are now at 103 percent of short term avoidable cost. These are also 403(b) trains that have exceeded the short term avoidable cost, but the excessive revenue is not shared with the States. It is not even offset to reduce the cost of other trains supported by the same State.

Similarly, excessive revenue is not even used to reduce associated capital costs of depreciation and interest. Amtrak says there is no way that those items can be decreased under their interpretation of the act.

We are suggesting that, other than having the Amtrak board be the arbitrator of our argument, that it should be a matter of the ICC or the Railroad Accounting Principles Board, which in our judgment has the expertise to define these items.

But first we need an interpretation by the committee as to what was the intent.

That is a summary of my statement, Mr. Chairman. I too would try to respond to any questions you may have.

[The statement follows:]

STATEMENT OF WILLIAM T. DRUHAN, AMERICAN ASSN. OF STATE HIGHWAY & TRANSPORTATION OFFICIALS

Mr. Chairman, for the record my name is William T. Druhan. I am representing the American Association of State Highway and Transportation Officials. I appreciate very much your invitation to appear hear today to express the Association's views on the proposed authorization for appropriations for Amtrak for fiscal years 1989-1991.

The Association supports an authorization for appropriations to Amtrak for the next three fiscal years in an amount sufficient to compensate for the revenue deficiencies from operations for its present system and for an adequate capital improvement program. In particular, AASHTO desires that sufficient funding be provided to allow Amtrak to continue to operate the state supported services [the so-called Section 403(b) trains].

Amtrak is an essential national transportation system. Among other things, Amtrak assists in alleviating highway and airport congestion in a cost effective and energy efficient manner. Amtrak serves many communities which do not have bus and air service. Also, automobile travel is not available to a large segment of the young, elderly, lower income, and disabled travelers. Failure to adquately fund Amtrak at this time would deprive a large number of citizens their only means of intercity transportation and detract from the balance in our national transportation network.

The debate regarding the pros and cons for continuing federal subsidization of intercity rail passenger services has been going on since the formation of Amtrak in 1971. It was recognized at inception that the necessary support would be very expensive. It was for this very reason that railways needed relief from the burden of continuing the service and Congress agreed to establish Amtrak. In recent years Amtrak has made considerable improvements in its revenue to cost ratio; the amount of Federal funding has declined over 50 percent in constant dollars between 1981 and 1988. Moreover, Mr. Claytor has proposed a number of amendments to federal legislation that would further considerably reduce the amount of federal support needed and at the same time provide better service and additional compensation to Amtrak employees. Congress has expressed a desire to reduce the budget deficit as much as possible. Therefore, in furtherance of this goal Congreess should permit Amtrak to reduce the amount of government support needed by granting relief from unwarranted federal requirements innumerated by Mr. Claytor.

In supporting an authorization for appropriations to Amtrak it should be clearly understood that AASHTO is unalterably opposed to having the appropriated funds be derived from the highway trust fund. AASHTO believes that it is imperative that the integrity of the highway trust fund be maintained. AASHTO opposes the withdrawal of funds from the highway trust fund for purposes other than the support of the federal-aid highway and public transportation programs. AASHTO also opposes any additional motor fuel taxation which would be used for purposes other than the support of the federal-aid highway and public transportation programs.

It has been conservatively estimated that annual requirements to maintain the current federal-aid highway system exceed $20 billion. Estimated tax receipts into the highway portion of the trust fund are only about $13 billion in fiscal years 1988 and 1989. Obligation authority, however, for the federal-

aid highway program for fiscal year 1988 has been limited to $11.8 billion and the administration's budget request for fiscal year 1989 is $11.4 billion. Clearly, insufficient funds are being made available to satisfy highway needs. Moreover, the fact that there is a large balance in the highway trust fund is because the states are not being allowed to spend available funds and does not mean that these funds should be considered surplus to highway needs. The use of these funds has been restricted in an effort to reduce the federal deficit and should not be made available for other purposes.

In addition, when contemplating withdrawing funds from the highway trust fund sight should not be lost of the fact that the fund was commenced with a firm commitment to the contributing taxpayers that it would be used solely for highway needs. There are a number of worthy transportation programs warranting federal support--and as I said, AASHTO believes Amtrak is one of these programs--but it would be a breach of faith to use the highway trust fund for a non-highway program.

Due to insufficient federal funding there has been a steady increase in state funding for highway programs. Motor fuel taxes are relied upon by the states as the traditional source of highway program revenues as well as for other transportation needs. Therefore, any action by Congress to increase the federal taxes on motor fuel for purposes other than the federal-aid highway program are strongly opposed by AASHTO because such additional taxes severely hamper the ability of the states to raise their own motor fuel taxes and adequately fund state transportation programs. The difficulty states are having in obtaining adequate revenue is demonstrated by the fact that 33 states introduced motor fuel tax increase legislation during 1987 but only 14 of those states were successful in having increases enacted. In 1986 only 8 of 23 states were successful in obtaining increases. Obviously, if the federal tax was increased for other than highway purposes, even fewer states would be able to increase their taxes.

AASHTO recognizes Amtrak's necessity to have a fixed funding source in order that it can carry out its planning and operations in an orderly manner. In addition to emphasizing that this source should not be the highway trust fund, it should be parenthetically mentioned that given the experience in recent years for all federal funds, it is not believed there is any guaranteed methodology for such funding. Programs relying on the highway trust fund and the airport and airway trust fund have had considerable difficulty in administering their programs due to Congressional delays in approving appropriations and granting insufficient obligation authorities. Granted, unlike in the case of Amtrak, the highway and air programs have not been threatened with extinction, but nevertheless their continuity has been interrupted.

Currently, state supported Section 403(b) trains are operating in six states: California, Illinois, Michigan, Missouri, New York and Pennsylvania. As provided in the Rail Passenger Service Act, as amended, these trains are supported by the respective states in the amount of 65 percent of the short-term avoidable loss and 50 percent of the associated capital costs. These trains are an intrical part of Amtrak's basic system. These trains are comparable to branchlines in the freight system; they provide a feeder system

for the trunkline operations. These trains are becoming increasingly more successful and consequently considerably enhance Amtrak's revenue derived from its basic system trains.

The enabling legislation provides that the Amtrak board of directors "shall, after consultation with appropriate officials of each State that contributes to the operation of service under this subsection, establish a basis for determining short-term avoidable loss and associated capital costs . . ." Accordingly, Amtrak defines short-term avoidable loss as the difference between revenue and short-term avoidable costs. Revenue is defined as local revenue earned directly from 403(b) service, plus revenue derived from the 403(b) segment of a route but earned on a connecting non-403(b) route. Amtrak has also determined that "associated capital costs," in addition to facilities and track improvements, should include charges for interest and depreciation on the equipment used in the service. AASHTO is opposed to these charges for depreciation and interest.

AASHTO is not aware of any legislative history justifying the inclusion of interest and depreciation on equipment used. It would therefore appreciate a clarification from the committee as to the congressional intent.

AASHTO believes Congress intended that the charges to the states for associated capital costs would be limited to actual cash expenditures made by Amtrak for specific capital improvements pertaining to the state supported trains such as new facilities or track improvements. This belief is substantiated by the fact that the Act provides for Amtrak to enter into an agreement with a state agency for the operation of a train if the state satisfies certain criteria and, moreover, "if the corporation determines that such service can be provided with resources available to the corporation." That is, it appears that Congress assumes Amtrak will have available equipment and not purchase equipment for the trains on a shared basis with the states. Clearly, Amtrak is to use equipment previously purchased with federal funds and not currently required for the basic system. This interpretation is substantiated by the fact that Amtrak has been forced to deny applications for trains from some states because of equipment shortages. At no time was the purchase of equipment for Section 403(b) trains contemplated by Amtrak or the states.

Amtrak justifies the charges to the states for depreciation and interest on the basis that it is a private corporation and would be deprived of opportunity costs for other investments if the states did not pay for depreciation and interest on the equipment required for its trains. The states fully appreciate Amtrak's private status. They believe, however, recognition must be given to the fact that since inception the federal funds have been used to pay 100 percent of Amtrak's capital costs. Although corporate revenues and funds received from the federal government are fungible with regard to operating costs, separate line item appropriations have been provided by Congress for the purchase of operating equipment. Amtrak is presently in need of additional equipment as well as replacement of some present equipment. It will again ask Congress for the necessary funding. Congress is again expected to provide funding for the entire cost of any equipment purchases with no reduction due to cash payments previously made or to be made by the states to

Amtrak for the equipment used on its trains. The cash generated by charging the states depreciation on equipment was undoubtedly used to assist in the financing of operations without particular regard to the operations of the state supported trains.

Similarly, Amtrak's charges to the states for interest is unfair. Interest is not an Amtrak cost and should not be a charge to the states. Amtrak does not pay the federal government interest on the amounts furnished for capital or operating needs; therefore, it is not understandable why interest could be considered an "associated capital cost." The unfairness of these charges is also substantiated by the fact that to our knowledge in no other instance does Amtrak consider interest as a cost factor. For example, Amtrak is required to attain a certain cost-revenue ratio to justify the continuation of operating basic system trains. Depreciation and interest costs are not considered in these determinations. Also, AASHTO does not agree with Amtrak's justification that it would be deprived of opportunity costs for other investments if the charges for interest were not made. Congress mandated that Amtrak assist in the state supported trains if resources are available; Congress did not indicate a number of optional investment opportunities whereby the selection of one would preclude another.

Under the 403(b) program, the states have been playing a role of increasing importance to the development of inter-city rail passenger service in this country. This program provides an opportunity to attract additional riders most cost-effectively by further utilizing Amtrak's existing facilities and operations. Indeed, Amtrak's best performing short distance services are operated under the 403(b) program. The establishment of an equitable basis for determining charges for state supported trains is paramount to the continuation of these services and the future success of this program.

A number of states have discontinued support for 403(b) trains. A case can undoubtedly be made that there was unsufficient ridership on the trains which were cancelled. A number of states, however, will also attest that the charges by Amtrak were not reasonable. Low ridership can be the result of inadequate marketing and/or a number of other factors. But unreasonable charges are inexcusable.

There are a number of state supported trains presently operating which are very successful. There are instances where the revenues from these trains on certain routes exceed the short-term avoidable costs. Unfortunately, in these instances Amtrak has determined that the states should not benefit from this occurrence. Amtrak precludes the offsetting of the excess revenues against the short-term avoidable loss incurred by the state on other routes of its supported trains. In addition, Amtrak interprets the Act to mean that the requirement for the payment of 50 percent of associated capital costs is a line item that cannot be reduced in any way. That is, in instances where the revenue exceeds short-term avoidable costs on a particular route, this excess revenue cannot be used to offset the charge to the state for associated capital costs on this same route. Ironically, Amtrak makes incentive payments to railroads to improve service but at the same time discourages the states from enhancing the revenues of trains beyond the short-term avoidable costs by assuring that the states receive no benefits from its efforts.

Where revenues exceed short-term avoidable costs is the result of marketing efforts on the part of the states. It would appear only reasonable that the states should be rewarded for their successful efforts by reducing the charges for associated capital costs and/or short-term avoidable costs on other trains. Amtrak benefits from these efforts by the fact that the passengers in many instances are using the state supported trains in order to make connections with the Amtrak basic system trains. Without state marketing efforts Amtrak would not receive this additional revenue. Without an incentive to the states to increase revenues on these trains Amtrak may lose substantial revenues from its basic system trains.

As stated above, the Act provides that the Amtrak board of directors is empowered to establish a basis for determining short-term avoidable loss and associated capital costs "after consultation with appropriate state officials." In view of the disagreement between the state officials and the Amtrak board in this matter, AASHTO suggests that the Act be amended whereby such accounting definitions be determined by the Interstate Commerce Committee or the Railroad Accounting Principles Board. Understandably, when there is a dispute between two parties, one party should not be empowered to rule on the matter. It appears to us that the ruling by a third party would assure a fair settlement and that the ICC or the RAPB have the expertise to make appropriate rulings.

Senator EXON. Thank you very much, Mr. Druhan. We appreciate your statement and the fine organization that you represent so ably.

Let me return to you, Mayor Smith. If I remember—and I also want to say, Mr. Druhan, that as Nebraskans we appreciated the kind comments that you had about the citizens of Hastings. They are really great folk out there, and it was thoughtful of you to make the comments that you did with regard to how the people of that city come to the aid of total strangers in a time of need.

And I would not have expected them, nor would the Mayor, since I was their Governor, to act any differently. But it is nice to have people remember.

Mr. DRUHAN. It is an event you do not forget.

Senator EXON. Mayor, if I remember my schedules correctly, even though you are a strong supporter of Amtrak, the schedules of Amtrak are not particularly conducive to ridership in Hastings, Nebraska. What are the times when Amtrak trains go through your city, approximately?

Mr. SMITH. About 4 o'clock in the morning. But you know, if you are going to fly, for instance if you were going to fly to Washington, DC, you would have to go to Lincoln or Omaha, which is a two and three hour drive. So you are probably going to get up at those hours anyway.

So I do not find it objectionable. They have to go through some community at that hour of the morning.

Senator EXON. Mr. Sullivan, we welcome you here. Is there anything that you have to add as a very active participant in the community of Hastings, NE? If you have any input, I would be very glad to recognize you at this time for anything you have to say.

Mr. SULLIVAN. Thank you, Senator.

You know, a number of things that we have been doing in Hastings in the last few years have been related to economic development of the area. The downtown of our community, like many towns of the same size, has gone into disrepair over the years and

we are working very hard with a number of just all kinds of ways to stimulate downtown growth, and we have spent a lot of money downtown.

And something like Amtrak is I think vital to the continued livelihood of a community such as ours. There are businesses we are trying to attract into the downtown and to the outside portions of town, and without Amtrak we are going to have—I guess if it were gone, it would be much tougher for us to deal with the competition that we have with other towns.

And I think it is awfully critical that we keep Amtrak coming through our community.

Senator EXON. I think the point that you are making is a good one. Even though 3 or 4 o'clock in the morning would be one of the worst times that you could select to have a train going through, nevertheless the intrinsic value of having a means of transportation for people that have no other transportation—certainly it is used by people who could drive, if they wanted to, to Omaha or Lincoln and get a flight.

Those who do not have automobiles would rely even more heavily on even an inconvenient hour to use the train transportation.

I think there is an intrinsic value, though, to these communities that cannot be measured in dollars with regard to having such a facility as a part of the total transportation system, which is not ideal in a city like Hastings and many of the other towns that I could mention up and down that particular rail line.

I do not know what the monetary value is, but I think it would be considerable from the standpoint of maintaining your population, maintaining the understanding of the people in the area that they are not isolated totally, although with deregulation of the airline industry we have had cities like Hastings and many others who have not fared very well, and that is one reason why we think the essential air service program that came out of this subcommittee has been helpful.

I just wanted to make the point that there is a value that cannot be readily measured in dollars of having this facility maintained, and it is a very important one.

I just have one question of you, Mr. Druhan. Your association obviously favors continuation of this system, which is part of the whole transportation network. According to your testimony, AASHTO believes that such funds should support only the Federal highway and transportation programs.

Can you explain to the committee why, as best you can, in your opinion Amtrak should fall outside of the public transportation programs which qualify for trust fund support?

Mr. DRUHAN. Well, Mr. Chairman, the inclusion of public transportation within the drawdown of the highway trust fund was made in the 1982 act. Prior to that time, it was a pure highway trust fund. At that point they added an additional nickel to the gasoline tax and designated one penny of that to go to the public transportation system.

We are obliged to support that law. We do not believe it should be taken away. We recognize that at that time that was the first increase in taxation for the highway trust fund that was made since 1959, so it had been a long time in coming.

We were grateful for the additional four cents, without trying to object to the additional penny. As I point out, though, in my testimony, the States are not in a position now to have another penny taken away for another purpose.

We believe there are a number of good deserving Federal transportation programs that should be supported. But like the air trust fund, we do not believe the highway trust fund should be used to support these programs and still expect the States to maintain our highway system.

A further point that I probably did not emphasize enough was that, unlike the air trust fund, it is not believed that there is a surplus of funds in the existing highway trust fund. All that is being done is the States are not being allowed to draw down all the funding that is needed. Conservatively speaking the States need $20 billion a year but are only being allowed to draw down $11.5 billion.

As the roads deteriorate, we are going to get more and more complaints. Money is going to have to be released and additional money is going to have to be generated.

We are burdened with a shortage of funds right now, and we cannot take on the Amtrak burden. Yes, we do support Amtrak as a transportation system. We feel it is necessary for the national program. But we do not see how we can include that in our funding.

Senator EXON. I understand, Mr. Druhan. That is a good point that could be made. We are becoming increasingly involved in all of these trust funds that are not expended as was intended by the Congress, and then we get to the situation, well, what about putting all of these off-budget?

I serve on the Budget Committee and we have all kinds of requests at the present time from different groups: Well, move us off the budget, move us off, so that our trust fund is separate and does not affect——

Mr. DRUHAN. We are one of those groups.

Senator EXON. I would simply say that maybe one way to solve that would be to leave all of these funds on budget, but specifically prevent by law the administration, whatever administration we have—this administration is not a great deal different from previous administrations that have liked to have excessive kitties in trust funds because it looks good when they come out with that total deficit figure.

For example, today if it were not for the social security trust fund the deficit that is customarily thrown around would be a third to a half more than it actually is. So one of the problems with putting these matters on budget, which is a good idea, I suggest, from a budgeteer's standpoint to know what the total scope and the total spending is, and just how much money is going out and what our real deficit is.

When all of these funds were incorporated originally in the overall fund and put under the Budget Committee, it was thought that that would give us a truer picture. Actually, it has been manipulated from the standpoint that all of these items on budget have been used to fuzz up, using smoke and mirrors, to state honestly what the deficit of the United States is.

We are continuing to wrestle with that problem. And I thank you for your testimony.

Gentlemen, thanks for coming.

Mr. DRUHAN. If I might add, Mr. Chairman, as a member of this Budget Committee you understand the shallowness of the administration's remark that Amtrak funding has to come out of the transportation account. The funding for Amtrak does not have to come within the mark that the Office of Management and Budget put for transportation. It could come from the whole package as you are going to wrestle within the Budget Committee.

Mr. Riley is correct, he is limited to the 400 account. But that does not mean it should be.

Senator EXON. Thank you.

Anything further, Mayor Smith?

Thank you very much for being here.

I call our last panel this morning, Mr. William G. Mahoney, counsel for the Railway Labor Executives Association, and Mr. Ross Capon, executive director of the National Association of Railroad Passengers.

Mr. Mahoney and Mr. Capon, welcome to you this morning. I know that you have been sitting, listening to the testimony that the subcommittee has been receiving this morning. You are last on the panel, but certainly not least this morning. And we look forward to your testimony.

If you have no schedule of appearances between yourselves, I will call on Mr. Mahoney first.

STATEMENT OF WILLIAM G. MAHONEY, COUNSEL, RAILWAY LABOR EXECUTIVES' ASSOCIATION

Mr. MAHONEY. Thank you, Mr. Chairman.

First, I was asked by Mr. Kennedy to express his apology and his regrets at being suddenly called away and unable to appear, and I ask that his testimony be placed in the record.

Senator EXON. We are delighted to accept that without objection, and also any full statement that you have, without objection. And we would appreciate your summarizing.

Mr. MAHONEY. In light of the emergency nature of it—and I found out about it yesterday afternoon—I do not have a prepared statement, and Mr. Kennedy's statement will suffice.

But I think that, having represented the Railway Labor Executives' Association as counsel for the last 36 years, I am pretty much familiar with their position on various issues, and certainly on Amtrak. And I am here to state for them that they fully support the Amtrak authorization request.

We think it should be higher. I think Mr. Capon, who will speak after me, thinks it should be higher. But nevertheless, it should be at least what Amtrak has requested and stated that they need.

As Mr. Claytor has stated, the employees of Amtrak have always supported it. Indeed, the unions that I represent supported it before its existence. They took a great deal of part in its creation, and it has their full support in this legislature and elsewhere that has enabled Amtrak to continue to exist.

But without their help and the help of their employees, Amtrak simply would not be in existence today. I am quite sure of that.

Now, Amtrak has always approached the problem of funding authorization, which has always been a very troubling problem, of course, in a very positive manner. They have always discussed the quality of their service and their increased ridership and the sacrifices made by their employees.

And recently before the House, they did not do that. They emphasized, rather, a negative legislative program, at least negative from our point of view, that they have. And we oppose the legislative program that they have. And when Mr. Claytor mentioned toward the end of his testimony, as he noted, while there is $600 million of Federal money going into Amtrak, there is $200 million in employee money going into it.

So of an $800 million subsidy, the employees contribute $200 million, 25 percent, and that is a pretty good subsidy from the employees, we think.

I do not agree that the work rules on this railroad, Amtrak, and Springfield Terminal are anything alike as Mr. Riley indicated After what Mr. Riley said I am sure he agrees, to paraphrase General Sheridan's old statement, that the only good work rule is a dead work rule.

In this case, those work rules on Springfield Terminal were forced on those people. They were not bargained. We bargained with Amtrak, and the people up there in the Springfield Terminal situation—it is a horrendous situation, with people dying, people being injured, shippers not being served.

There is a world of difference.

We have stated or Mr. Kennedy states in his prepared testimony the responses to what we consider an anti-employee legislative program by Amtrak. And I will not go into that in detail, except many of these, of course, these requests that Amtrak makes for legislative support I believe do not come within the jurisdiction of this particular committee.

I do not believe FELA does. But everybody talks about FELA and everybody seems to be against FELA, except the employees, who get the benefit of FELA. According to Mr. Riley, when he became a lawyer he became against FELA, but he was for it before then. I do not quite understand that if he wanted to make a living, but nevertheless that is what he said.

I would like to say this about the Federal Employees Liability Act: It is a safety act. It brings a safety incentive to both management and to the employees. And of the $38 million that the carrier says it spent, Amtrak says it spent, it could have saved $16 million of that, it says, if had been under state control or state compensation laws.

Of the $38 million, every dollar of that was spent because Amtrak was at fault. They were negligent and they were shown to be negligent, and they had to pay.

Now, if they could save $16 million, that means it is $16 million they did not have to pay employees who were injured at the fault of Amtrak. I do not think that is right.

Mr. Claytor has not put forth any real strong reasons for wanting to do away with FELA, but he says he has an experimental

program in mind: Do it for 2 years, let Congress look at it, see how it is going.

I do not know what he means by that, except to say that the employees certainly are not willing to become guinea pigs and suffer these tremendous injuries, which employees do suffer on the railroads. They have suffered severed legs, severed arms, severed bodies. It is a very hazardous profession.

And FELA acts as an incentive to keep accidents down and has been proved so. So the amount of money he saves, I do not know how he reached that conclusion, $16 million, because the GAO said, depending upon which state compensation law it would use, AMTRAK would save between $2.7 million and $17 million.

Now, there was a recent fire, as you know, an on-board fire in Hastings. And the employees of the railroads have been getting a bad rap, we think, lately. They should get a good rap on that fire. They handled themselves beautifully and the passengers thought so.

And what I would like to do, if you are willing, Mr. Chairman, is to put into the record of this proceeding a letter from an eye witness in that accident, which I received only late yesterday, so I was not able to include it in my testimony. If I could, I would like to place that in the record.

But to sum up, we do strongly support the Amtrak authorization, but do oppose any legislation that would change any of the basic rights of the employees for one railroad only, certainly. If this is going to be looked at, whether to do away with railroad retirement, with railroad unemployment insurance, FELA, or any of those things, that should be done by the proper committee under the proper circumstances, and looking at the industry as a whole.

Thank you.

[The prepared statement and letter referred to follows:]

STATEMENT OF JAMES J. KENNEDY, JR., EXECUTIVE SECRETARY-TREASURER, RAILWAY LABOR EXECUTIVES ASSOCIATION

My name is James J. Kennedy, Jr., I am Executive Secretary-Treasurer of the Railway Labor Executives' Association to which I was elected by the members of the Association. The offices of the RLEA are located at 400 First Street, N.W., Washington, D.C. 20001.

The RLEA is an unincorporated association whose members are the chief executive officers of the standard national and international railway labor organizations representing virtually all of the contract employees on the railroad operating in the United States.

I speak today in support of that level of funding for Amtrak which will permit it to continue a quality program of expansion and service to the ever increasing numbers of our citizens who utilize rail travel by choice or by necessity. We urge the Congress to authorize federal funding for Amtrak in the amount of $630 million. As will be pointed out in detail by others, that amount is less than needed but the minimum required to prevent deterioration in this vital service that will be much more costly to restore at some future time.

The RLEA, however, emphatically opposes the legislation program which Amtrak has submitted to the Congrees.

I have not had an opportunity to read the testimony Amtrak has submitted to this Committee. However, I have read Amtrak's testimony before the House Energy and Commerce Committee of February 25, 1988, and I assume that Amtrak's testimony as submitted to this Subcommittee tracks the substance of and recommendations contained in that testimony.

Amtrak's "new approach" to its financial problems is most disappointing to railroad labor. Heretofore Amtrak has approached the Congress from a most positive aspect in seeking the necessary funding authorization and appropriations to provide

this country, with what we believe to be, essential rail passenger service. Now Amtrak has apparently decided to switch to a negative course, largely ignoring the great strides it has made in the preservation, quality and expansion of rail passenger service in the United States and the enormous contributions in effort and money which its employees and the representatives of its employees have made toward its success. Amtrak unmistakably demonstrates that it has initiated an all out attack upon its employees. In doing this, Amtrak with no justification, economically or philosophically, apparently has decided to join its brother railroads in the private sector in their efforts to secure Congessional elimination of the statutory and even contractual, rights of railroad employees which history has demonstrated are required by the public interest. Perhaps Amtrak has determined to become the stalking horse for the rail industry, using what it perceives to be the unchallengeable argument before Congress that by cutting back on the rights and benefits of its employees Amtrak would, ostensibly at least, be saving taxpayer dollars, rather than the mere stockholder dollars privately owned railroads would save were they do do the same things Amtrak proposes.

Whatever Amtrak's reasons may be, its new policy is particularly difficult for rail labor to accept or even understand given the fact that were it not for the representatives of Amtrak's employees, and specifically the Railway Labor Executives' Association, Amtrak would never have come into existence. Indeed, it would not have survived past its first year of existence were it not for the time and effort and legislative support given it by the representatives of its employees. Ironically, that support and the financial sacrifices of its employees, are the primary reasons Amtrak is in the position today to seek to strip from those same employees virtually all the statutory and judicial protections they now enjoy.

The anti-employee policy embraced in Amtrak's testimony before the House, as well as in its February 15, 1988 Legislative Report to the Congress is not only shortsighted and counterproductive, but downright self-destructive. If Amtrak is to succeed, it must do so by providing a service that is attractive to the public. Those of us who are old enought to remember what happened to rail passenger service in the 1950's and 1960's when the private carriers then providing it deliberately downgraded the quality of the service and destroyed the morale of their employees providing that service, know that the course now laid out by Amtrak will destroy it as it destroyed private rail passenger carriage in this country 30 years ago.

Certainly, Amtrak can reduce its operating costs by stripping from employees their rights under the Railroad Unemployment Insurance Act, the Federal Employers Liability Act, the Railroad Retirement system, labor protection and the Railway Labor Act (secondary picketing, contract transfer rights between Conrail and Amtrak).

If Amtrak achieves these goals, will it be satisifed or will cost cutting pressure compel it to return to the Congress next year or the year after and seek legislation to impose the minimum wage upon all its employees and the reinstitution of the 12-hour day, 6-day week? There can be no doubt that the imposition of such burdens upon its employees would further reduce its operating costs; but there likewise can be little doubt that Amtrak by that time will be enjoying very little revenue because the quality of its service would have deteriorated at a rate commensurate with the deterioration of the rights and morale of its employees.

The primary reason for Amtrak's attack upon its employees is unclear; that its policy constitutes an all out attack upon the best interests of those who man its operations, provide its maintenance, and service the public, cannot be doubted. We believe that policy to be extremely unwise in concept and ominous in application.

Before I address briefly the various employee rights which Amtrak would have this Congress eliminate and the grounds stated by Amtrak in support thereof, I would like to point out that the legislative changes here sought by Amtrak transcend mere monetary authorizations; they involve basic policy questions as to the direction in which this Congress wishes railroad labor relations to proceed. Such profoundly significant issues should be considered on their own and not as a minor part of the consideration of authorization for one railroad.

1. Exemption From Railroad Unemployment Insurance Act.—The basic ground stated by Amtrak in support of the removal of the RUIA insurance program is that the cost of railroad unemployment insurance is based upon the unemployment record for the entire railroad industry and not on the individual record established by Amtrak's employees. If that argument were valid, RUI would never have come into existence in the first place. If that were a valid ground for elimination of railroad unemployment insurance with regard to Amtrak, it would likewise be a valid ground for removal from the program of any railroad which maintained a better

unemployment record than the industry as a whole. In any event, it will be remedied by enactment of H.R. 2167, a fact which Amtrak fails to note.

Amtrak also states that its employees would "receive the same sickness benefits and larger unemployment benefits than presently provided under RUIA." Amtrak does not point out the fact that more employees qualify more quickly for unemployment benefits under RUIA than under most state programs and the employee benefits extend for longer periods. While most state programs expire in 26 weeks, RUIA covers employees with 10 to 15 years' service for 39 weeks and those with over 15 years' service for 52 weeks. Amtrak significantly fails to acknowledge the existence of H.R. 2167 which has passed the House and is presently pending before the Senate without opposition. That bill will increase the daily benefit for railroad unemployed and index future benefits. Especially noteworthy in view of Amtrak's reason for objecting to RUIA coverage, is that H.R. 2167 contains "experience rating" whereby employers with lower unemployment histories will get lower rates.

2. Exemption From The Federal Employers Liability Act.—Amtrak argues that it could save $16 million annually if its employees were covered by state workers' compensation laws rather than FELA and that FELA creates an adversarial relationship between Amtrak and the employees involved because the employees must show Amtrak was at fault in causing the employee's injury.

FELA goes well beyond the subject of injury compensation. While FELA has proven effective for providing injury compensation, it has also proved to be a cornerstone of safety in the railroad industry and to be an important element in establishing corporate accountability. Today this is extremely important given the serious flaws in the regulatory programs dealing with railroad safety that have been established over the years and the Federal Railroad Administration's weak enforcement of the safety laws.

Railroading is an inherently hazardous profession and FELA, as a negligence liability law specifically tailored to the character of the rail industry, is a most important safety incentive in that industry. This safety-enhancing feature of the law is as important to the public as it is to the workers. Safe working conditions translate into safety for passengers and for the communities through which trains travel.

Amtrak, of course, is not alone in seeking elimination of FELA. The entire railroad industry seeks its repeal. This interest in removing FELA from the statute books coincides with another development in the industry: the growing numbers of claims for hearing loss and occupational disease stemming from exposure to asbestos and other toxic substances being filed by railroad workers. Without FELA, the railroads, including Amtrak, would escape accountability and much of the financial responsibility for these types of injuries inflicted upon their employees.

Amtrak claims it could save $16 million of the $38 million paid in FELA claims if it were remvoed from FELA coverage. However, one must remember that that $38 million was paid to employees under a negligence statute (FELA) which required Amtrak to be at fault in order to be liable. In other words, Amtrak would save $16 million in injuries caused to employees by its own negligence which would be paid for by those injured employees. In addition, only 4% of FELA claims exceed $75,000 and these involve the most debilitating injuries.

Costs for Amtrak under state-type or no-fault system laws would be likely to be no lower than under FELA. Cost increases are similar under FELA and the Federal Longshoremen's and Harbor Workers' Compenstation Act (a no-fault system). Between 1979 and 1984, payments per claim rose 137% under the latter program and 157% under FELA. In addition, 85% of FELA cases are settled without the employee hiring a lawyer, meaning that the payment of legal fees (usually based on a standard 25% contingency) is limited to 15% of the cases. The U.S. Department of Labor estimates that under the no-fault longshoremen's system legal representation is similarly obtained in about 15% of the cases.

As for the claim that FELA creates adversaries of Amtrak and its employees, experience demonstrates worker compensation programs to be no less adversarial. While only 1.1% of FELA cases are determined by the courts, much higher percentages of worker compensation cases are contested in many states, e.g., 13% in Mississippi and 27% in Illinois.

In any event, Amtraks an integral and important part of the railroad industry and its employees should not be singled out for discriminatory treatment in the elimination of any of these important statutory rights as advocated by Amtrak. The issue of the continued existence of FELA and the other statutory repeals sought by Amtrak to apply solely to it, if worthy of consideration at all, should be the subject of consideration by apropriate committees of the Congress on an industrywide basis.

3. Exemption From the Railroad Retirement System.—Amtrak here claims a savings of $45 million a year if allowed to withdraw from the Railroad Retirement

System. This savings, of course, must be based upon Amtrak being able to wash its hands of any responsibility to existing retirees in the System including those railroad passenger service retirees who worked for Amtrak's predecessors in passenger service. Of course, any program would be cheaper if those receiving benefits under it were excised. But in this case, given the state of the System and the dwindling employment in the industry, withdrawal from the System's rolls of several tens of thousands of Amtrak employees would very probably destroy the System before the newly created Congressional Commission could provide Congress with its recommendations for solving the System's problems.

We respectfully submit Amtrak's request to be relieved of its Railroad Retirement obligations is both misplaced and premature.

4. Limiting Labor Protection.—The request by Amtrak further to limit the protection of its employees comes with ill grace. The employees of this railroad have made great sacrifices to keep it operating. Today they receive about 12% less than their brothers and sisters on other railroads. The operating employees sacrificed work rules and the manner in which their pay was determined resulting in tens of millions of dollars of savings for Amtrak. Only two years ago, rail labor acquiesced in Amtrak's legislative attempt to curtail the statutory protections enacted by Congress when it created Amtrak. What Amtrak does not mention in this request is that its enactment would mean effective repeal of the protection statute for all employees who have Amtrak systemwide seniority. Amtrak is unique in that it is this country's only nationwide railroad so that an employee bumped from his job in Miami would have to take a job anywhere in the United States or be deprived of protection, even though he might be bumped from his new job within a few months and again be forced to move across the country. There is nothing comparable to Amtrak employees' nationwide seniority system on any other railroad in this country and we respectfully submit it would be manifestly unfair to Amtraks' employees to deprive them of what little statutory protection they retain particularly for the reasons stated by Amtrak.

5. Preventing Secondary Boycotts Against Amtrak.—This issue would seem quite clearly to be an undertaking by Amtrak for the entire railroad industry. Amtrak has never been threatened with secondary picketing. Amtrak, of course, could be affected by secondary picketing should a railroad on whose property Amtrak operates be picketed. Amtrak has offered no reason why it should be singled out apart from the industry to be exempt from secondary picketing. This effort of Amtrak's should be summarily rejected.

6. Transfers Between Amtrak and Conrail.—The limited flowback rights between Amtrak and Conrail were enacted as the only means of obtaining the requisite number of employees for Amtrak to operate the Northeast Corridor. It was an essential condition of that legislation. Amtrak now claims it has become a burden. If so, why did not Amtrak seek the cooperation of the representatives of its employees in presenting to Congress a reasonable means of alleviating that problem. It did not do so in this or any other legislative proposal Amtrak has submitted. We believe Amtrak demonstrates little respect for the rights of its employees in seeking the elimination of their rights in this unilateral manner.

We respectfully submit each of Amtrak's legislative proposals discussed above should be rejected.

Thank you.

ILLINOIS LEGISLATIVE BOARD

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PATRICK W. SIMMONS
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JOHN J. FOX
ASST. DIRECTOR

March 14, 1988

J. M. Brunkenhoefer, NLD
United Transportation Union
704 Railway Labor Building
400 First Street, N.W.
Washington, D.C., 20001

Dear Sir and Brother:

This is in reference to your telephone call of today due to my being a passenger on board Amtrak Train No. 5 on February 20, 1988 at Hastings, Nebraska and your inquiry concerning the fire that occurred.

As I stated to you, I was a passenger on board Amtrak Train No. 5 out of Chicago and departed at 3:15 PM on February 19, 1988. I was assigned to car No. 531, space No. 9 which was an economy roomette. The trip between Chicago, Illinois and Hastings, Nebraska was to me routine without any problems. All of the passengers I had talked to seemed to be enjoying their trip.

At approximately 2:45 AM on February 20, 1988, I had awakened due to my being a light sleeper when the train stopped. I looked out of my compartment window and we were sitting directly across from the Station Agent's Office in Hastings. At that time everything was quiet and I began to smell what seemed to be smoke. To me it smelled like smoke from an electrical fire. Within about thirty (30) seconds or so one of the car attendants was knocking on the sleeping car attendants door attempting to awaken him and shouting that the car was on fire and that there was a lot of trouble. This sleeping car attendant compartment was directly across from my compartment. I also heard other people attempting to awaken many of the passengers in our car. The smoke begain to get worse and I gathered up my belongings and went into the coach compartment directly behind our sleeping car along with many of the other passengers from that same car. I got dressed and, along with the sleeping car attendant and other passengers we helped get one another out of the car, some of us crawling on our hands and knees to see that everyone was out of their compartment.

Many of us from the sleeping car went outside and helped the firemen to tell them how to get in and out of the cars and push the windows out. During all of this time, the car attendant and all of the other on board Amtrak employees, along with the Conductor and Assistant Conductor did everything humanly possible to help evacuate the passengers and the employees who were sleeping in the dormitory car directly ahead of Car No. 531.

It is my opinion that no one could have done any more to assist the passengers than what was being done.

Conductor Jones and Assistant Conductor VanHook and all of the on board Amtrak personnel should be commended for their valiant efforts in controlling this situation. There was no panic by the other passengers and we have a lot to be thankful for that only one person perished in the fire.

Car No. 531 was not on fire. The smoke came into the car through the ventilating system when the door was opened into the dormitory car by the crew in order to save the lives of the crewmen who were sleeping in that car.

I was very disheartened to learn upon my arrival in Denver, Colorado during a short lay-over that the press and news media were reporting that none of the crew alerted the passengers about the emergency.

This was totally untrue and unfair to all of the passengers and crew members.

All of the passengers in car No. 531 were offered bus transportation to Denver, Colorado. Most of us declined and stayed on the train to continue our journey. As far as we were concerned, we were treated properly and courteously by all concerned from Amtrak.

If you or any of the other investigative agencies have any further questions, I will be happy to answer them at any time.

Fraternally,

Patrick W. Simmons

STATE DIRECTOR

Senator EXON. Thank you very much.

I will have some questions after we finish. But I am pleased to go now to Ross Capon for his testimony. Welcome back. You have been here before.

OPENING STATEMENT BY SENATOR PRESSLER

Senator PRESSLER. Mr. Chairman, could I just put a word in edgewise here? I am running between three committees this morning, which we end up doing. I have some questions for the record.

I would like to thank the witnesses. I commend the chairman for holding this hearing. I missed the first panel. I have some questions about getting Amtrak into Aberdeen, South Dakota, a situation which the North Dakota delegation, particularly Senator Burdick and I, have been working on together, and also expand some service in North Dakota and South Dakota.

South Dakota is one of the few states that does not have Amtrak service. We do have some questions for the record. We will submit them.

Mr. Chairman, I want to work with you very closely on this, and I commend these witnesses who are here. My questions are not for this panel, but I will leave them.

Thank you, Mr. Chairman, for scheduling this hearing today to examine Amtrak reauthorization. Once again, the President's budget proposal calls for the elimination of federal fnding for the National Railroad Passenger Corporation. The issues we will be addressing this morning certainly merit the attention of the entire Congress.

Mr. Chairman, you and I experience first hand the never-ending problems faced by rural states to obtain adequate transportation service. Over the past few months, I have been working closely with our state legislators, transportation officials, and citizens to discuss the transportation problems in our state.

As you know, Amtrak provides passenger rail service to 44 states. At this time, my home state of South Dakota is one of the six states not served by Amtrak. We recently met with Amtrak officials to discuss a proposal that would bring Amtrak services to the northern part of South Dakota.

This proposal probably will not be realized in the near future, but we are working to ensure that passenger train service is returned to South Dakota as soon as possible. The next necessary step in this process is for an Amtrak inspection train to be sent over the proposed route to assess the condition of the track and the signal system.

Mr. Chairman, I commend you for holding this meeting and look forward to hearing from today's witnesses.

Senator EXON. Senator Pressler, I appreciate very much the help and support you have given us on Amtrak over the years, even though South Dakota is a State that does not directly benefit. Senator Pressler is one Senator with a very broad view on these things.

We appreciate not only your interest, but the concerns that you have in your state. We are pleased to accept your statement for the record, and any questions you have for this panel or the others

have already been included in an all-encompassing statement that the chair made earlier. And we are glad to have those questions.

Is there anything further you care to say?

Senator PRESSLER. No. I just look forward to working with you on these problems. We will be looking very closely at what the witnesses have to say.

Senator EXON. Thank you very much, Senator.

Ross Capon, we are glad to have you. Please proceed.

STATEMENT OF ROSS CAPON, EXECUTIVE DIRECTOR, NATIONAL ASSOCIATION OF RAILROAD PASSENGERS

Mr. CAPON. Thank you, Mr. Chairman.

I believe our board approved a route structure we would like to see eventually that does have Aberdeen, South Dakota, on it.

I would like to ask that my full statement be included in the record.

Senator EXON. Without objection.

Mr. CAPON. Very briefly, we support an authorization of $650 million a year for Amtrak for the three year period under consideration. In addition to what you have already heard about Great Britain, I would like to note that the Spanish Transportation Minister was recently in New York and announced the Spanish railways are going to get $19 billion over twelve years, which works out to $1.5 billion in capital investment per year, which is even higher than Britain.

I am sure that one could go on with a list of other countries where the per capita investment is similarly higher than it is here.

I would like to emphasize the fact that one of the reasons that Amtrak's revenue-cost ratio has been going up in recent years is the benefits, the payback from the large capital investments that were made in Amtrak in the late seventies and the early eighties, and which have gradually been squeezed out in recent years.

And if that is not turned around, there will be a future manager who, even though he might be as competent as Graham Claytor, might be unable to continue improving things because he will then be reaping the benefits of the reduced capital investment of the past few years.

I would like to emphasize that there is no way Amtrak can increase its revenues when its trains are slowed up or discontinued. I note at the bottom of page 3 and the top of page 4 in my testimony the fact that the Chicago-St. Louis line is deteriorating. It's been acquired by a financially weak railroad.

Amtrak has just placed slow orders on it. That is going to have an impact on the marketability of the Chicago-St. Louis service.

One of the things we would like to see as part of the capital investment is perhaps designating some of it as creating a meaningful matching fund program for states, which today face overwhelming pressure to focus all transport investment on aviation and highways, since Federal funds are readily available for those modes, but not for rail. This encourages states to ignore rail, even where it could do the job better.

Now, Mr. Riley has talked a great deal about what he calls the one-time cost of shutting down Amtrak. We believe Amtrak is a

classic case of a program whose costs are easier to measure than its benefits. In fact, for railroads in general, the costs are more easily measured because they tend to show up on the balance sheet of a single company that owns the infrastructure, whereas the costs of the airlines and highway carriers are spread all over the place.

In my statement I have a list of the benefits that we see coming from the Amtrak program, and the first benefit I list is capacity for the future. Passenger demand is growing, and the need for passenger trains that more efficiently use land and energy is going to continue to grow in the future.

So what we are going to see if we shut down Amtrak and scramble that un-descrambleable egg is a continuing growing problem in the future of inability to meet transportation demand.

With your permission, I would like to have entered into the record a brief article from the March 7 Journal of Commerce that describes a survey taken of businesses in Boston that found 45 percent of 123 firms surveyed indicated they would use trains if the trip Boston to New York could be made in two hours and 45 minutes.

[The article follows:]

[From the Journal of Commerce, Mar. 7, 1988]

FAST TRAINS CONSIDERED VIABLE AIR ALTERNATIVE

BOSTON.—A surprising number of manufacturing executives would use fast trains to New York as an alternative to air travel from Logan International Airport, a transportation expert says.

"I was surprised at the answers because they (executives) are used to aviation and going (from Boston to New York) by (air) shuttle," said Northeastern University Professor James Molloy.

He said about 45% of the 123 firms surveyed indicated they would use trains if the trip could be made in 2 hours, 45 minutes. Results for slightly slower rail trips are still being analyzed, and reasons for the respondent's answers were not requested, he said.

Professor Molloy is a transportation consultant for the Associated Industries of Massachusetts, which is cosponsoring the survey with a state planning group in preparation for a seminar on conditions at Logan Airport, which is scheduled later this year.

And the Northeastern University professor who made the survey said he was surprised at the answers, because executives are used to aviation and going by the air shuttle.

I would like to wrap up, really, by focusing on the funding issue. We would like to see what we call a unified transportation fund. We think the mode-specific trust funds and of course the lack of one for rail is the main reason that we do not have balanced transportation today. Passengers are not mode-specific.

I had to drive to Annapolis yesterday, and almost 90 percent of the Federal gas tax I paid was earmarked for building more roads. By the same token, the air ticket tax paid by someone flying from Boston to New York can be used to improve air facilities anywhere in the country, but not to upgrade the train services that might do the most to relieve congestion and safety problems at the terminals and in the airways the traveler actually used.

In other words, if there has to be separate trust funds, maybe they should be done on a functional basis, rather than on a mode specific basis.

I think one of the reasons highway interests complain of a shortage of funds is because state investment programs, particularly in urban areas, are trying to build too many roads. I know from citizen involvement in Maryland, which is a leader in the use of gasoline tax money for transit, that the State Highway Administration there just literally has money burning a hole in its pocket. This makes it very difficult in the case of local transit to get them to look at rail transit alternatives.

So to the extent that we are coming down to hard choices on the budget, as Secretary Burnley says, we would like to suggest that perhaps some of those hard choices involve less money for air and roads and certainly more than the President has recommended for transit and Amtrak.

And of course, the key issue on the Northeast Corridor and what the states would do if Amtrak shuts down has to be looked at not just in terms of Amtrak, but also in light of the fact that the President is proposing a dramatic reduction in UMTA funds, which means that the states are going to be hard-pressed simply to get their commuters to work every day.

It seems to me this reduces the possibility that states would do anything in the intercity rail passenger area.

Thank you for your time.

[The statement follows:]

STATEMENT OF ROSS CAPON, EXECUTIVE DIRECTOR, NATIONAL ASSN. OF RAILROAD PASSENGERS

Thank you for this opportunity to present the views of our non-profit, consumer-oriented association.

I. AMTRAK'S STRONG FINANCIAL PERFORMANCE AND CONTINUED CAPITAL NEEDS

We support $650 million/year authorizations for Amtrak for each Fiscal Years 1989-1991. This level is:
o 3% above the FY '88 authorization of $630 million;
o 27% below the FY '81 appropriation of $896.3 million; and
o 5% below the FY '85 appropriation of $684 million.
This would permit an appropriated capital investment program of about $100 million/year.

Comparison with Foreign Systems: This would be far less than the 5-year, $1.05 billion/year capital program included by the conservative British government of Margaret Thatcher in its recently-released public expenditure statement for 1988. The January 21 Journal of Commerce report on the government statement said this 3 billion pound program was one of British Rail's "most intensive renewal programs....British Rail will spend the money electrifying lines and adding new terminals and rolling stock."

It would also be less ambitious than plans announced by Spain on March 1 and reported thus in the March 3 Journal of Commerce: "Spain is sprucing up its transportation network in the preparation for the 1992 Summer Olympic games in Barcelona. Key to Spain's effort is a $19 billion investment over the next 12 years in its rail network, Transportation Minister Abel Caballero said Tuesday (in New York)....The bulk of the $19 billion will be used to design and build two new high-speed rail lines: one north-south, linking Seville to the French border,

and a second triangular route joining Madrid, Barcelona and Valencia...."

An Impressive Performance: Amtrak passenger-miles in 1987 equalled 84% of the intercity rail passenger total in 1970, the last full year of all-private-sector operation, though Amtrak runs only about half the trains and half the route-miles which the private railroads ran during 1970. In other words, Amtrak--as many hoped--transformed an uncoordinated network with many duplicative and/or poorly-patronized trains and routes into a coordinated network of heavily-used trains.

The 1987 passenger-mile total represented the fifth consecutive increase, and the second consecutive "record" year for Amtrak; in other words, passenger-miles in FY 1986 (5.0 billion) and 1987 (5.2 billion) both topped the previous record--4.9 billion set in 1979 when Amtrak had a much larger route structure plus the extraordinary ridership increase caused by severe gasoline availability problems.

Moreover, recent ridership increases have been accomplished even as the share of Amtrak costs covered by commercial revenues rose. Amtrak's 64% FY 1987 revenue-to-cost ratio was the sixth consecutive increase. (The last time this measure declined was in 1980, after the extraordinary 1979 "gasoline crisis"/route reduction year.)

Continued Capital Investment is Vital: As Federal Railroad Administrator John H. Riley made clear in his January 29 testimony before the President's Commission on Privatization, a major reason for Amtrak's improving financial performance is the large amount of capital improvements at Amtrak during the late 1970s and early 1980s. In particular, Riley claimed that the purchase of Superliners (used on Western long-distance trains) "within the year reduced unit maintenance costs 50%."

Amtrak capital spending declined sharply in recent years. As a result, Amtrak's financial performance (and on-time performance) is already limited by rolling stock shortages and eventually will decline if capital investment is not increased. Riley also said January 29 that Amtrak is "throwing money away for lack of sleeping cars. There is very little marginal cost to adding sleepers, enormous marginal revenue." He sounded enthusiastic in talking about the need to replace the Eastern long-distance cars (dubbed "Heritage Fleet" by Amtrak) whose age he said was "approaching 40 years."

Our concerns are primarily with Amtrak's insufficient and aging rolling stock fleet, track conditions, and stations in certain large cities. Amtrak ridership is increasingly limited by the supply of rolling stock--and not just during the traditional holiday peaks.

Chicago-St. Louis track conditions are particularly serious though not unique; the line was sold by Illinois Central Gulf to a small new carrier with limited financial resources. We received the following letter, dated February 8, from one of our St. Louis members:

"The riding quality on the former ICG line from Chicago--bad for years--is probably at an all-time low. My daughter and her husband, wanting to try Amtrak, said never again. They almost became ill from the rough ride. The situation is especially bad because of the number of people exposed to Amtrak for the first time on this popular corridor.

"An Amtrak fireman on this run said that the roadbed is 'worse than ever.' Several reports here say that the new railroad which owns this track is almost bankrupt.

"Also, I read about new stations all around the country. Is St. Louis ever to be so lucky?

"On the positive side, a recent trip to Kansas City was perfect in every way."

Since then, speeds have been cut from 79 mph to 60 mph on about 90 miles of the line, adding about 20 minutes to the running-time so that the train is really no faster than driving.

To maximize non-federal contributions to Amtrak's capital needs, we seek a meaningful matching funds program for states. Today, states face overwhelming pressure to focus all transport investment on aviation and highways, since federal funds are readily available for those modes but not for rail. This encourages states to ignore rail even where it could do the job better.

We strongly support the proposal, which Riley endorsed January 29, to remove the Amtrak salary cap that limits Amtrak's ability to attract and retain top-notch executive talent. (This is an expression of concern for the future; <u>not</u> a criticism of the current Amtrak management team.)

II. AMTRAK'S 1988 LEGISLATIVE PROPOSALS

<u>Limitation on Environmental Liability:</u> Amtrak would like to limit its cleanup liability "on properties transferred to it by the United States...solely to that proportion of total costs resulting from pollution, if any, caused by Amtrak." We strongly support this request.

Attacks against Amtrak are frequently based on the total appropriation Amtrak receives. The debate becomes more difficult and, in our opinion, less informed, to the extent that this subsidy covers extraneous costs, such as the $30 million/year the administration claims is a cross-subsidy to Northeast commuter authorities, the $30 million/year cross-subsidy to Northeast freight railroads which this committee terminated in the last Amtrak reauthorization, and the potentially astronomical costs of cleaning up a mess left by Penn Central in a yard Amtrak doesn't even use. As one of our members wrote recently, "Amtrak is one program with almost no hidden program elements and in fact contains a number of hidden subsidy elements [for] other programs." We would add that it contains "hidden benefits" not reflected in its financial statements--including reduced congestion on other modes and reduced air pollution. (See Section V.)

Freedom of Information Act: If, as Amtrak claims, the present situation "can be very anticompetitive"--because so many requests "are for competitive information submitted to Amtrak by third parties bidding on Amtrak contracts"--we urge the committee to consider simply eliminating the FOIA rights of bidders and litigators.

We oppose totally exempting Amtrak from FOIA. "Amtrak regularly disseminates substantial amounts of information" and says the news media made no requests in 1986 and 7 in 1987, but the very existence of FOIA may explain why the media has used it little in recent years.

FOIA originated when the commitment of Amtrak management to the organization's survival was widely doubted. Unfortunately, the possibility that we might confront such a management again cannot be discounted, particularly with the White House still unwilling to budget any funds for Amtrak--and with no guarantee that the next president would be any different.

Limiting Labor Protection: Amtrak wants to eliminate the "30-mile rule" which currently allows displaced employees to refuse new positions more than 30 miles from their places of residence and instead to receive up to six years' labor protection payments at full salary. Labor argues that similar provisions with the freight railroads work less hardship because they --unlike Amtrak--are not nationwide companies. An obvious compromise might be to change the 30-mile rule to a 1,500-mile (or more) rule, since several freight railroads are that large.

Preventing Secondary Boycotts Against Amtrak: We support Amtrak's proposal, which is obviously in the best interests of rail passengers and appears consistent with the spirit of "Amtrak Commuter" provisions enacted in 1981. We also see the application of secondary boycott provisions to railroads but not other transport modes as a form of government discrimination against railroads which ultimately helps divert freight from the rails to competitors whose costs are effectively deregulated. (The power which the secondary boycott gives rail unions--but not trucker employees--tends to drive up rail costs relative to trucker costs.)

III. POSSIBLE ALTERNATIVE FUNDING MECHANISMS

For some time, various people including Amtrak President W. Graham Claytor Jr. have talked about use of a gasoline tax penny to fund Amtrak. The term we prefer is "unified transportation trust fund." The intellectual basis for this was illustrated by Vukan R. Vuchic, Prof. of Transportation Engineering at the University of Pennsylvania, in his 1984 article, "The Auto Versus Transit Controversy: Toward a Rational Synthesis for Urban Transportation Policy," from which the following paragraphs are excerpted:

"The principle that motor vehicle taxes should be used for highway purposes only seems at first sight to have all the advantages of user taxation. It appears to be a logical and equitable method of financing. However, a more rigorous professional examination of it discovers a major flaw in its

definition of users.

"This application of user charges principle is based on the assumption that automobile users in a state or in the country represent a special category of travelers, separate from those who use vehicles on rails, water, or even on the same highways, but are larger (bus). Thus, a person in Cincinnati driving to a neighbourhood supermarket pays gasoline taxes which can be used for construction of a freeway in Montana, but they cannot be used to improve bus transit serving his very neighborhood.

"This flaw comes from the primitive consideration of transportation sectors through their mechanical and operational forms, rather than functional definition of transportation. An urban transportation system can be a system only if it encompasses all urban transportation, regardless of the physical form it takes. Following the basic principles of taxation, charges should be collected where possible and appropriate, and used for the modes or facilities which are most effective and desirable for the city.

"...Failure to treat urban transportation as a single function led not only to separate modal policies, but produced the policies which aggravated the imbalance between modes instead of stabilizing their relationship to achieve efficient multimodal systems."

While Vuchic's discussion focusses on local transportation, similar principles apply to intercity. Today, for example, the air ticket tax paid by someone flying from Boston or Providence to New York can be used to improve air facilities anywhere in the country but not to upgrade the train services that might do the most to relieve congestion and safety problems at the terminals and in the airways the traveler actually used.

The mode-specific trust fund approach which today produces "imbalanced" transportation nevertheless might have produced a balanced system if a rail trust fund had been established before the 1950s, but we cannot rewrite history now. Whatever the intellectual weaknesses of "mode-specific" funding, it works well for the interest groups that benefit. Serious political obstacles would face any effort to create a unified transportation trust fund. Some of the concerns opponents would raise would be legitimate. To meet these concerns, such a fund would have to include safeguards to insure efficient use of trust fund money for intercity rail passenger purposes; it might also be wise to include a criterion or mechanism that would, at a given point of rail passenger system financial viability, turn rail passengers into contributors to the trust fund.

We agree with Secretary Dole's April 23, 1985, testimony before a House Energy & Commerce subcommittee that privatization is not a realistic option for Amtrak service. She said the possibility of a private takeover "was one of the things we wanted to look at early on and I think, in the time that has intervened, we have had a chance, really, to focus on that. I don't think realistically that is likely to happen. Now, the Auto Train aspect is one part that could produce some

interest...but I don't want to overemphasize that aspect because I do not think, in looking at this in detail over the last few months, that that is really likely to happen."

Three years later, the administration's message is essentially the same. Office of Management and Budget Director James Miller III, in January "Privatization Commission" testimony, praised Amtrak management and acknowledged they have made great progress. He said, however, that "you could be the world's best producer of buggywhips" and still lose money. He said "chances are zero" that privatized rail passenger service could exist outside the Northeast Corridor and possibly on the West Coast and some short runs out of Chicago.

Later the same day, Administrator Riley demolished the notion that even the Northeast Corridor could be profitable. He ridiculed talk of employee ownership which has been popular among friends of the administration, noting that such talk assumes employees would have the ability to run the system. In fact, said Riley, labor would have to cut salaries 62-63% or eliminate 60% of the work force "just to break even." Summing up, he said, "No Amtrak route is profitable. One cannot prune Amtrak to profitability."

Since Amtrak is largely dependent on tracks of the privately-owned freight carriers, their likely attitude toward "private" passenger operators is worth considering. The industry's only major experience with such an operator was not a happy one. "At the time of its bankruptcy filing [in 1980], [Auto-Train Corporation] owed Seaboard [Coast Line Railroad, which became part of CSX] more than $5 million in unpaid fees." [Regardie's, May/June 1981].

Amtrak enjoys several advantages private successors likely would not: a long history of paying its bills; a hard-earned reputation for managerial competence; the legal right to run on any rail line at reasonable rates (dictated by the ICC if necessary); and a nationwide system easily accessible to the public. The legislation which established Amtrak offered the railroad industry a quid pro quo: an end to their passenger deficits in return for giving Amtrak certain rights. In the unlikely event privatization came much closer to reality than it already has, the industry could be expected to fight attempts to extend Amtrak's old "quid pro quo" rights to successor private companies not backed by government.

IV. HISTORICAL REASONS FOR THE SUBSIDY REQUIREMENT

The most commonly cited reason is that other modes use publicly-owned infrastructure and do not pay the full cost. Closely related is the fact that the government established "trust funds" for the other modes--serving as their banker free of charge--but never for rail.

Two other factors are also relevant. First, the Interstate Commerce Commission for the better part of this century, prevented railroads from raising rates to permit service improvements the market likely would have supported. "By 1910, Congress had given the I.C.C. power over rates, but the

Commission, beset by conflicting demands from different user groups and the railroad industry, could do nothing more than preserve the status quo in the rate structure. This was during a time of rapid inflation, but railroad arguments that rates must be adjusted for rising prices were futile." (The American Passenger Train in the Motor Age: Archival and Econometric Analyses of Explanations for the Decline in California, 1910-1941, a fascinating dissertation published in 1987 by Gregory Lee Thompson, a Ph.D. candidate at University of California, Irvine.)

Second, the railroads themselves made irrational decisions in terms of passenger service profitability, perhaps because they viewed passenger service as a showcase for executives of major freight shippers rather than as a profit center in its own right. (In other words, an executive who preferred a particular railroad's passenger trains was more likely to give his freight business to that railroad.)

Railroads insisted on maintaining duplicative services even though the ICC was receptive to consolidation proposals. During World War One, railroads were privately owned but controlled by the federal United States Railroad Administration (USRA--no relation to the more recent agency of the same name). Thompson notes USRA's major passenger policy was to eliminate "competitive passenger trains...so as not to hinder freight moving for the war effort."

Thanks to USRA policies, writes Thompson, "passenger service was more profitable than freight service when Congress returned the railroads to private control on 1 March 1920....In spite of Congressional encouragements, the competitive pressures between the numerous railroad carriers were too strong to allow the continuation of rationalized passenger service. The carriers claimed they needed to restore their individual corporate identities. Duplicative and luxurious passenger trains, terminals and ticket offices were one means for doing so."

In the 1930s, Southern Pacific spent a great deal to introduce fast, air-conditioned trains in a Dallas-Houston market which was then barely able to support similar trains another railroad already operated in that market. At the same time, SP paid little attention (and did not offer air-conditioning) on a run with good potential but no competition from another railroad: Sacramento-Bay Area.

On many routes and in several cities, wastefulness and duplicative trains and terminals--another negative byproduct of private infrastructure ownership--remained until Amtrak took over. Indeed, one of Amtrak's major contributions has been to restore coordination and eliminate duplication, just as USRA did 70 years ago. In 1987, for example, Amtrak handled 84% of the private railroads' 1970 passenger-mileage with only about 50% of the trains and route-miles.

Finally, in response to critics' claims that Amtrak was to have turned a profit after its second birthday, it should be noted that congressional hearings held before Amtrak's startup made very clear such anticipation of profit had no basis in

fact. Indeed, then-Transportation Secretary Volpe himself refused to identify any single factor (such as profitability) as the main criterion for his selection of routes. At an April 22, 1971, hearing, Rep. Joe Skubitz (R-KS) asked Volpe, "Does the national interest demand that even if we operate at a loss, that we keep the railroads [passenger trains] or discontinue them?" Volpe replied, "I would hope we could continue them, sir."

V. BENEFITS OF AMTRAK SERVICE

Obviously we see no analogy between buggywhips and passenger trains. The enthusiastic tone of Riley's testimony before the Privatization Commission suggests that he likewise is at odds with Miller on this point. For the reasons discussed below, we think intercity passenger trains are a vital part of our modern industrial society and their importance will grow in the years to come.

1. Capacity for the Future: Because intercity transport demand is expected to keep growing, and because airplanes and motor vehicles do not use energy and land as efficiently as does the passenger train, trains are essential for assuring that the nation's overall transport system will provide the mobility and reliability future generations will need. The number of areas where this will be crucial will grow. Illinois DOT has found that half of the flights at O'Hare serve points within 400 miles; 13% serve points located on just three Amtrak routes (those to St. Louis, Milwaukee, and Detroit).

2. Capacity For Today: Administration statements that Amtrak handles only about 1% of intercity travel are misleading. In markets where Amtrak does provide service, its share is far larger than 1%. Already, Amtrak handles 1/3 of the New York-Washington air-plus-rail market; when intermediate markets (where Amtrak's time-competitive advantage is even greater) are included, the figure is 70%. Amtrak also handles a significant share of the New York-Albany, Los Angeles-San Diego, and certain New York-New England air-plus-rail markets.

Furthermore, an Amtrak shutdown would have a bigger impact on U. S. transport capacity than would the demise of an equivalent-sized airline or bus company, since losing Amtrak would mean the loss of transport capacity (i.e., that provided by rail infrastructure) and the diversion of most Amtrak passengers to already-crowded highways and airways. On the other hand, most former passengers of failed airlines or bus companies simply shift to another carrier using the same infrastructure.

3. Energy: Only trains can be switched from scarce petroleum to plentiful alternative fuels, which are already providing much of the power in the electrified Northeast Corridor. Even diesel-hauled trains are generally more energy-efficient than automobiles and airplanes, and (like airplanes) fill up rapidly during energy crises. As you know, the U. S. pays too little attention to the energy situation until a crisis develops; our current rising dependence on oil imports should give pause to anyone who thinks destroying Amtrak

is in the national interest.

4. Urban efficiency: Rail service is more likely than air service to feed passengers to and from urban transit systems and to promote urban development patterns that use energy more efficiently and make jobs accessible to those without cars.

5. Rural mobility: Trains serve many communities with no other form of public transportation. The per-passenger subsidy involved in providing this service is much lower than that required for airplanes, since the latter are usually flights provided solely for a few communities whereas Amtrak's rural service is a by-product of service between major cities and involves little or no incremental cost.

6. Those who won't or can't fly: Trains permit travel for those who are medically unable to fly or who fear flying. (The number of people who have temporary medical flying disabilities is very large.)

7. All-weather reliability and safety: Trains are frequently the only vehicles moving in heavy snow or fog and are usually less affected by heavy rain than are other modes. Bad weather causes much less deterioration of rail safety than of safety on other modes.

8. Safety at all times: Public transport is 30 to 50 times safer than traveling by private automobile, yet the auto would get the lion's share of Amtrak's passengers if Amtrak shut down. Amtrak's spring 1984 survey found that 45% of all passengers would switch to the automobile; even more in areas that already have the most automobile congestion: 48% in the Northeast Corridor and 53% in other corridors.

Incidentally, the safety records for domestic air carriers and Amtrak are roughly equivalent, notwithstanding contrary claims widely publicized by supporters of the Federal Employers' Liability Act. For the ten years ending in 1986, the airlines had 6.9 passenger fatalities per 10 billion passenger-miles (PM's), Amtrak 2.6. For the ten years ending in 1987, airlines were at 5.86, Amtrak 5.83 (Amtrak: 46.3 billion PM's and 27 passenger fatalities; air carriers 2,421.7 billion PM's and 1,419 passenger fatalities). I have used 10-year periods because individual accidents can skew the statistics in any given year. For example, no air or Amtrak passengers died in 1986, whereas 250 air and 15 Amtrak passengers died in 1987.

8. All income levels: Figures available in 1985 based on 1984 surveys showed passengers with household incomes under $20,000 constitute a higher percent of all Amtrak passengers (34%) than of airline passengers (14%) or auto drivers (28%). Also, reflecting heavy use of long-distance coach services by lower-income groups, 47% of Amtrak passengers who ride for 12 hours or longer on the same train have household incomes under $20,000. (Systemwide Amtrak averages understate this factor, of course, because Metroliner passenger incomes--and rail fares--are quite high. A major purpose of the Metroliner is to alleviate airport congestion, which would not be accomplished

simply by handling low-income people.)

9. The long-distance trains offer the best way to see the nation's natural beauty, and the only practical way for those who can't drive hundreds of miles.

10. Passenger terminals for the future: Providing new rail passenger terminals in big cities is difficult. One usually needs a good downtown location approached by rail lines from at least two directions. Several major cities with corridor service potential are served by Amtrak only with long-distance trains. These include Dallas, Denver, Houston, Las Vegas, New Orleans and Pittsburgh. Operational rail passenger service keeps terminals in place, reducing the capital investment and logistical problems to be encountered in conjunction with future efforts to provide fast corridor trains to the same cities.

I hope this statement proves helpful to your deliberations and would be happy to provide additional information at your request.

Senator EXON. Ross, thank you very much.

Since I know you are pressed for time, Senator Pressler, I will be glad to yield to you for any questions you have at this time.

Senator PRESSLER. Thank you very much, Mr. Chairman. I shall ask my questions for the record, and I thank you very much.

Senator EXON. Thank you.

Mr. Mahoney, do you have any suggestions or are you familiar with any proposals or suggestions by Amtrak employees that have been proposed to further increase Amtrak's operating efficiency?

Mr. MAHONEY. I know of no proposals by Amtrak employees. I do know that as Amtrak took over the on-board operations of the employees, they agreed to eliminate many of their work rules and to change many others, modify many others, which would make the operations of Amtrak more flexible and more easy and certainly save Amtrak a lot of money.

I know of nothing of recent times, after that I should say.

Senator EXON. Mr. Mahoney, this question does not necessarily represent a point of view of the chairman, but since retirement and unemployment benefits come up continually when we talk about railroaders, I would like to ask you: Other than from an historical perspective, why should Amtrak employees or railroad employees generally receive unemployment protection different than that afforded other American workers under existing State unemployment compensation laws?

Mr. MAHONEY. The unemployment system in the United States came into being, that is the railroad unemployment system, primarily because of the way the railroads operate across State lines, and you have employees in an industry certainly in some companies—Amtrak is a perfect example; it is a national company—who live in one state, work in two or three other states.

You have to determine if it were not a national arrangement just what they would get and where they would get it and how they would qualify and which States they belonged in. You would have

people who were working side by side and laid off at the same time getting entirely different benefits, qualifying in different ways.

And so it was found many, many years ago to be a much more sensible arrangement for the railroad industry.

Senator EXON. That would apply also, though, would it not, to bus drivers, truck drivers, airline pilots, and so forth?

Mr. MAHONEY. Well, not exactly in the same way, I do not believe, because whereas today bus drivers, truck drivers, airplane pilots do operate interstate, I do not believe with an airplane pilot, for example, when he lives or is based in, say, Los Angeles—say he might fly all over the place, but he is only over a state for an hour at a time.

And the same thing with truck drivers. Some of them do, I suppose, follow relatively closely what railroads do.

But the system was set up at a time, I suppose, when we did not have all of that, and to remove it and put them back into that program, a program like that now, would simply cause a great many problems. There is no question about that.

And the employees' benefits would be changed. So I believe, since it has been in existence as long as it has and it works, that there is no reason at all to change it.

Senator EXON. So it is as much as anything else, back to what I said in my question, as much as anything else, rightly or wrongly, indifferently, it is based on a historical perspective?

Mr. MAHONEY. Well, it is certainly partly this, yes.

Senator EXON. Mr. Capon, the only question I have for you is a chance to expand further, if you would like, with regard to part four of your testimony, wherein you cite the historical reasons for a subsidy requirement for Amtrak. Would you like to elaborate on that?

And in the absence of Federal funding, what would you expect would result from a return to private ownership or, to use the buzzword, privatization, especially as it relates to rural mobility and rural problems?

What I am trying to get at is—and I appreciated your testimony very much with regard to the $650 million kind of stands out in the budget and is not put in the same perspective, I suggest, as other expenditures of the Federal government.

When you look at the other expenditures of the Federal Government, $650 million, while it sounds like a large item when it is on one line of a budget proposal, it is quite miniscule when you look at the overall functions of the Federal government and what we do in other areas.

Would you care to expand on that any further?

Mr. CAPON. Sure. I think the gist of my fourth section there is that Amtrak is the culmination of a long history. I think there is a common perception that the railroads sort of managed passenger service profitably until maybe a decade or two before Amtrak was created.

But in reality, the railroads never managed passenger service as a profit center in its own right. And I refer there to a Ph.D. thesis that was published last year that noted that, under the pressure of World War One constraints, when the Federal USRA took over the

operation of the railroads in the late teens, they consolidated passenger trains.

They eliminated a lot of duplicative competing luxury passenger trains and such, to the extent that when they turned it back to private control in 1920 the passenger service was actually more profitable than the freight service. But the railroads, in spite of congressional encouragements to the contrary, insisted on re-establishing all the old competitive and inefficient passenger practices, apparently because they felt that their freight shippers were more likely to ship on a particular railroad if they used the passenger trains of that particular railroad.

So the passenger trains in that sense have never been managed profitably. And you could even argue that the large investment in capital that was made by private railroads after World War Two was not well directed, because it neglected many of the short haul corridors where today we see the need screaming out.

Illinois DOT, for example, has found that half of the flights at O'Hare serve cities that are within 400 miles of Chicago and 13 percent of the flights serve cities that can be found on just three of Amtrak's corridors—Milwaukee, St. Louis, and Detroit—radiating from Chicago.

You have the issue of the rates, the rate control that the ICC exerted, which began before World War One, of refusing to allow the rates to rise during a time of inflation, which meant that the railroads did not have the capital to invest in the infrastructure even if they had wanted to.

And then at the beginning of the twenties, just when the automobile was taking over, beginning to take off, the ICC decided that, if the railroads were going to reinstitute all these inefficient competitive trains, the freight shippers should not have to pay for them. So they allowed major passenger rate increases which made no sense competitively: just when you are facing a new competitor, the auto, up go the rates because for other reasons we want to restore a lot of trains that perhaps we do not need.

Also, part of the reason that the subsidy is required is that, as I noted, the rail technology lends itself to measuring costs very easily and benefits not so readily.

But you also have this history of decisionmaking by the railroads, of rate regulation by the ICC, and of public funding of other modes which all combine to put us in a hole that we have to decide whether we are going to dig our way out of.

We think that it is worth digging our way out, for the several reasons pointed out.

As far as privatization goes, I think it is interesting to note that two efforts at privatization have sort of fallen flat within the past month or so. One was the Roaring Fork Railroad, which was going to run service between Denver Stapleton Airport and Aspen, CO. They have recently pulled up stakes and announced they could not reach a satisfactory agreement with the Rio Grande Railroad, so they are not going to run private service.

And the other one is down in Florida, the high speed line that they are proposing to build, which they may yet build. Last year I was on a TV program of the U.S. Chamber of Commerce, debating

with Matthew Scocozza, one of the Assistant Secretaries at DOT, debating the privatization of Amtrak issue.

And one of his big points was that Florida may be on the verge of $2 billion of private investment in rail passenger service. But I was sent a newspaper story recently saying that, if the high speed trains are going to exist in Florida, there is going to be a fair amount of public investment required to get them going.

So I think the evidence is all over the place that private railroads, private investors, are not Santa Claus. They are not going to compete with the kind of stacked deck that public policy amounts to today.

And I think that Mr. Riley's testimony has gradually become more and more consistent with that reality. We started off at a low point a few years ago when David Stockman said with a straight face that he thought a lot of the service might be preserved if Amtrak were to be de-funded, and I think the evidence is overwhelming that that is simply not the case.

The only parts that will be preserved, as Mr. Claytor said, are the shops, which some private operator might want to take over, and the real estate, which a lot of smart investors would like to take over for non-transportation purposes.

Senator EXON. Thank you very much. I appreciate both of you coming.

In concluding the hearing this morning, I want to thank all who appeared. I think we have been favored with some excellent and expert testimony, both pro and con, on the issue.

I also cannot close the hearing without failing to note that the Irish were well represented today, with Mr. Riley on the first panel, Mr. Sullivan on the second panel, and concluding with you, Mr. Mahoney, in the third panel. I can only suspect that there must be an Irish leprechaun somewhere on the staff that did such an excellent job of arranging all of this.

We appreciate your being here and thank you for your testimony.

And we are adjourned.

[Whereupon, at 11:25 a.m., the subcommittee was adjourned.]

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

Statement of Hon. David K. Karnes, U.S. Senator From Nebraska

Mr. Chairman, I am pleased to take this opportunity to express my concerns, along with those of my constituents, about the safety and service provided by Amtrak railroad. Personally, I have never experienced any problems while travelling on an Amtrak train. However, an Amtrak train recently caught on fire while travelling through Nebraska on February 20th, causing 17 injuries and one death. Most of the 17 were crew members from the train and suffered smoke inhalation.

I learned about this crash through correspondence from the Nebraska State Fire Marshal, Wally Barnett, Jr. He has expressed his very legitimate and serious concerns about the safety and quality of service on Amtrak. He has prepared a letter with eight specific areas of safety concerns that he would like to be addressed in these hearings. I am aware that Senator Exon has received some resources to these concerns from Amtrak, and that these responses have been submitted for the record in this hearing. I would like my colleagues on this committee to know that I agree with Mr. Barnett's concerns. If the federal government is going to reauthorize the funding for this rail service, we should first ensure that the service meets safety and service standards that are consistent with those set out by law for other transportation services.

Mr. Chairman, I urge this committee to consider AMTRAK's position in light of Mr. Barnett's concerns, and to reserve final judgement on this funding reauthorization until each member feels that these very legitimate safety concerns have been appropriately addressed.

Thank you for this opportunity to endorse the views of the Nebraska State Fire Marshall on this very important matter.

Statement of Hazel Frank Gluck, New Jersey Commissioner of Transportation

Mr. Chairman and members of the Subcommittee, I request that the following testimony and its attachments [1] be inserted into the record of the March 17 hearing on the reauthorization of Amtrak. My name is Hazel Frank Gluck. I am Commissioner of Transportation for the State of New Jersey and Chairwoman of NJ TRANSIT's Board of Director. I am submitting this testimony to emphasize the critical importance of Amtrak's Northeast Corridor to the State of New Jersey and the entire Northeastern region of the country. In addition, I would like to emphasize that continued federal support for the entire Amtrak system is essential to the economic well-being of this nation.

Before discussing critical issues relating to the NEC, I would like to take a few minutes to comment on the excellent and essential service provided by Amtrak nation-wide. In Fiscal 1987, Amtrak carried 30.4 million passengers of which 10 million were carried on contract commuter services provided in Maryland and Massachusetts. Passenger revenues covered 100 percent of the system's short-term avoidable cost. Furthermore, Amtrak's revenue-to-cost ratio—the percentage of total operating costs that are covered by self-generated revenue—is currently at 65 percent, upfrom the 1981 level of 48 percent. I understand that Amtrak is working to improve this ratio each year, and has a goal of reaching 70 percent or better by 1990. This revenue to cost ratio clearly indicates the excellent level of efficiency which Amtrak has achieved. I believe that compared to other railroad systems worldwide Amtrak would be at or near the top.

As it concerns capital investments, in 1987, Amtrak received only $27 million through that year's appropriation. To continue this extraordinarily low level of capital support for a nation-wide rail network would be a drastic error. The failure to adequately invest in our nation's passenger rail system will result in deferred maintenance which will in turn affect service quality and efficiency. As essential invest-

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[1] The attachment were not reproducible.

ments are postponed, quality will deteriorate, and costs to maintain services will increase. This will destroy the progress we have made in creating and improving the nationwide passenger rail network. It is absolutely essential that at a minimum, an adequate investment to maintain the system in a state of good repair be provided. This is particularly true on the Northeast Corridor.

The Northeast Corridor is essential to the economic health of the State of New Jersey and the Northeastern region of the United States. In the Northeast Corridor in 1987, Amtrak carried almost twice as many people between New York, Washington, and intermediate points as all airlines combined (16,500 intercity Amtrak passengers daily, 9,000 non-connecting airline passengers daily). No other mode is equipped to carry these passengers if Amtrak service was no longer available.

Even more significant than the increasing dependence of intercity travellers on Amtrak for service between the major cities in the Northeast, is the number of local or regional travellers in the Northeast who depend on the Northeast Corridor for transportation each day to and from the major city centers of Boston, New York, Philadelphia, Baltimore, and Washington. Eight regional rail agencies in six states operate trains on the Northeast Corridor through various arrangements with Amtrak. They carry 122,000 passenger rail riders daily who travel on the Northeast Corridor for at least part of their daily commute. In New Jersey, about 52,000 passengers daily, or almost two-thirds of NJ TRANSIT's total ridership, travel on the Corridor for at least part of their trip. This does not include over 3,000 NJ TRANSIT riders carried on Amtrak trains.

There are two major initiatives underway which highlight the significance of the NEC to the region. One initiative involves New Jersey's plans for the future. Last year NJ TRANSIT announced a plan for capital improvements throughout Northern New Jersey which will link a number of New Jersey's rail lines with the Northeast Corridor and give residents of New Jersey's northern and western counties rail service into Manhattan. This is critical to the New Jersey and New York economies, since existing trans-Hudson automobile crossings and bus and rail services are at capacity, but yet 58,000 additional trips are projected by 1995, compared to 1983. Potential investments in the Northeast Corridor are not limited to New Jersey. The Coalition of Northeast Governors has established a High Speed Rail Task Force to explore methods for achieving increased rail speeds on the Northeast Corridor between Boston and New York. While neither NJ TRANSIT nor New Jersey benefit from increased rail speeds north of New York, the interest in achieving better service clearly indicates the importance that states place on the NEC.

The long term viability of the Northeast Corridor is dependent upon the continued operation of Amtrak services and the continued investment and reinvestment in the corridor as this nation's premiere rail line. While the cost of providing both Northeast Corridor and nation-wide service is clearly a federal responsibility, the continued capital investment in the corridor is one that must be shared by Amtrak, local communter railroads and the federal government.

Recognizing the central importance of a shared capital investment responsibility on the Northeast Corridor, commuter agencies are already contributing to or solely financing capital improvements which benefit both commuter services on the Corridor and Amtrak's intercity service. Many of these commuter rail investments occur with Urban Mass Transportation Administration funding.

For example, Amtrak and NJ TRANSIT are in the process of negotiating a cost-sharing agreement for the installation of a Centralized Traffic Control (CTC) System between Trenton and Newark. Although the Trenton to New York segment of the Northeast Corridor has more trains travelling on it than any other portion of the corridor, it is currently controlled by an antiquated signal system consisting of ten towers which act as interlocking control locations. While these towers were capable of handling routine situations, the smallest disruption makes unified decision-making extremely difficult. The proposed CTC system will provide for a single point of control for the movement of trains, greatly increasing the safety and performance of the NEC between Trenton and New York. The total cost of the Trenton to New York portion of this project is expected to be about $38.3 million. NJ TRANSIT through its federally funded capital program is willing to share in the cost of this project. In fact, we have already committed $3.5 million on signal and cable replacement that is an initial task of the CTC project. An additional NJ TRANSIT commitment to this project will be forthcoming. It should also be noted that an agreement has already been reached between Amtrak and the Long Island Railroad for installation of a comparable traffic control system from the Hudson interlocking at Newark through Penn Station to New Rochelle, New York.

The projects mentioned above, and the contributions to those projects represent only a small portion of the overall capital investment needed to maintain and im-

prove the efficiency and effectiveness of the NEC. The Northeast Corridor Commuter Rail Authorities Committee (NECCRAC), an organization of commuter rail agencies which operate on the Corridor, has recently completed a preliminary report which identifies capital improvements needed over the next several years to keep the corridor operating in a safe and efficient manner. That report has identified over $2.6 billion in capital needs on the Corridor, of which $863 million, or 33 percent, are needed to achieve a state of good repair. Another $746 millin (28 percent) is needed to improve operations, and slightly over $1 billion (39 percent) has been identified to address increasing ridership demand on the Corridor. Of the $2.6 billion needed in the Corridor, $1.5 billion (58 percent) would jointly benefit commuter and intercity passengers. Another $358 million would solely benefit intercity passengers, and $773 million would solely benefit regional or local passengers.

The commuter rail agencies, through federally financed programs, are willing to contribute to the overall needs of the Northeast Corridor. Within New Jersey alone, we are prepared to spend almost $16 million over the next two years on NEC improvements, both as they relate to commuter rail improvements and as they relate to intercity and commuter rail services. This local commitment will go for naught if Amtrak is not provided the resources to make its own investments with the NEC. As I stated earlier, $27 million a year simply is not enough. Congress must address this issue of capital investment on the NEC, and must do so in the near future. Disinvestment cannot occur. The bottom line of such a disinvestment policy would be to negate the $2.13 billion already invested in the NEC.

I recognize that the Federal deficits preclude an immediate response to those issues I raise today. But clearly Congress needs to begin to fully understand the long-term investment needs of Amtrak. I urge this Committee to fully explore methods for meeting these needs. NJ TRANSIT stands ready as a willing partner in financing NEC Investments.

On a final note, I would like to take a moment to express my support for several legislative measures which Amtrak has proposed which would reduce costs and improve efficiency. Amtrak has proposed that it be made exempt from the Railroad Unemployment Insurance Act, the Federal Employees' Liability Act, and the Railroad Retirement System. I support all of these proposals, which would improve Amtrak's ability to contain its costs. In fact, I have been actively seeking changes in the above programs for commuter railroads as well. It is time for Congress to recognize that publicly supported railroads, whether intercity or commuter, must be treated differently from privately owned freight railroads.

Finally, Amtrak has proposed that secondary boycotts, whereby employees of one railroad strike in support of another railroad's employees, be prohibited against Amtrak. Such a measure is necessary, not only to prevent a shut-down of the intercity network, but also to prevent disruption of Northeast Corridor operations.

In conclusion, I would like to emphasize that effective, efficient, and safe rail service nation-wide is essential to the economic well-being of this country. Other nations around the world consider their passenger rail systems to be integral to an effective transportation system. I believe that this nation must do so as well.

Statement of the American Bus Association

The American Bus Association strongly opposes continuance of the federal subsidy to Amtrak and respectfully urges the Subcommittee to consider eliminating or, at least, substantially reducing that subsidy. We take that position because the Amtrak subsidy is unnecessary in light of the availability of other modes of transportation. In fact, the Amtrak subsidy is counterproductive in that its subsidies have greatly weakened intercity bus service, which is the mode most relied upon by the transportation-dependent. If Amtrak subsidies are to be continued, then Amtrak should be required by statute to steadily increase the percentage of its fully allocated costs that it recovers from the fare box, rather than through subsidies. This has proven to be the only way to foster steadily decreasing subsidies.

I. AMTRAK SUBSIDIES ARE UNNECESSARY AND COUNTERPRODUCTIVE

Needless to say, there must be a demonstrated need before any federal subsidy is authorized under present conditions. In the case of Amtrak, the simple fact is there is no such need. Almost all of the communities that Amtrak serves have alternative airline or intercity bus service. Thus, virtually every person who uses Amtrak has access to an alternate mode of public transportation.

Since 1971, more than $12 billion has been spent on upgrading and sustaining Amtrak service; yet, it still carries less than one percent of the nation's passengers.

Perhaps when there are no massive budget deficits, an argument could be made that a luxury hundreds of millions of dollars going to Amtrak annually are desperately needed for the numerous essential health, housing, and education programs.

But the problem with continuing the Amtrak subsidy is even deeper than that. The federal subsidy to Amtrak is, in real dollar terms, thirty times greater than the federal subsidy to the intercity bus industry (which consists of a partial exemption from the federal fuel tax). On a per passenger basis, the Amtrak subsidy is more than 200 times greater than the bus subsidy.

This huge imbalance has enabled Amtrak to reduce its fares far below costs in bus-competitive markets and to divert millions of passengers from bus to rail. This diversion, in turn, has contributed to a massive reduction in bus service throughout the country. In the Northeast corridor where buses run head-to-head with Amtrak on an hourly basis, and Amtrak has repeatedly used its subsidy to price its service at or below the price of a bus ticket, bus service has declined by more than fifty percent since Amtrak started in 1971. This has caused the bus system in the rest of the country to lose valuable feeder traffic and, coupled with Amtrak's regional and shorthaul service and pricing practices elsewhere in the country, has contributed significantly to the loss of all bus service in approximately 8,000 communities since 1971.

The fact is that Amtrak's primary market is the upper middle class business person or professional in the Northeast corridor, and the subsidies to this segment of the traveling public are contributing to the reduction in transportation service to those who truly rely on public transportation for their mobility.

One needs only to compare the demographics of the patrons of the bus terminals and rail stations in Washington or New York to understand that it is the bus passengers who truly need public transportation. And one needs only to live in states like Nebraska, West Virginia, South Dakota or Kansas to understand that the real rural transportation crisis is not the possible loss of one or two trains through the state serving a handful of communities, but rather the loss of bus service to thousands of rural communities. This loss continues today, caused in substantial part by the imbalance in transportation subsidies. Unquestionably, elimination of the Amtrak subsidy would help to revitalize intercity bus service nationwide.

II. AT THE VERY LEAST, CONGRESS SHOULD MANDATE SUBSIDY REDUCTION THROUGH INCREASED FARE BOX COST RECOVERY

Amtrak subsidies escalated rapidly throughout the 1970s until Congress started focusing on the need for Amtrak to reduce its subsidy dependence by increasing the percentage of its costs that are recovered by revenue through the fare box. Since then, Congress has given Amtrak guidelines to be achieved with regard to its revenue-to-cost ratio, and Amtrak has met those guidelines. Thus, this approach has met modest success in forcing down the Amtrak subsidy.

Now is the time to build on that approach by increasing substantially Amtrak's statutory guidelines for improvement in its revenue-to-cost ratio. At a minimum, a five percent annual improvement from the present sixty-five percent ratio should be expected. This should produce at least an improvement to eighty percent after three years. Furthermore, the guidelines should become a statutory requirement which, if it is not met, produces statutory penalties in the form of reduced subsidies.

Another point that needs to be focused on is that this revenue-to-cost ratio needs to apply to fully allocated costs, not just total operating costs. Whether a subsidy dollar goes for operations or capital improvements, it is a dollar that is being used by Amtrak that is not availble to support essential federal programs or reduce the deficit. Focusing only on the amount of subsidy being used to meet operating costs creates an inaccurate and understated picture of the amount of subsidy that is required.

Amtrak appears to have created an "expense exclusion" category that it omits from its revenue-cost ratio calculations. In 1987, Amtrak estimated this expense exclusion at $172 million. (1987 House of Representatives Appropriations Committee hearings at page 351). Exclusion of these costs reduces the 1987 revenue-cost ratio to fifty-eight percent. Since the cost for all expenses of Amtrak must be paid for out of its federal subsidy, they all should be included in the critical measure of how well Amtrak is doing to reduce that subsidy: the revenue-cost ratio.

STATE OF NEBRASKA

STATE FIRE MARSHAL

KAY A. ORR
GOVERNOR

WALLACE M. BARNETT, JR.
FIRE MARSHAL

February 25, 1988

The Honorable J. James Exon
United States Senator
SH-330 Hart Office Building
Washington, D.C. 20510

Dear Senator Exon:

I would like to solicit your help in raising some concerns about our passenger cars on the railroads.

While traveling through Nebraska on February 20th, an Amtrak train caught on fire. We lost one life with 17 injured. Most of the 17 were crew members from the train and suffered smoke inhalation.

My concern is not so much the cause of the fire which we believe to be electrical in nature; but, the unsafe practices regarding passenger safety.

I will list several fire safety concerns:

1.) No smoke detectors. If someone has a problem with vibration, they should install a pad between the car and detector. Smoke detectors are installed in many areas of vibration.

2.) Carpet installed from floor to ceilings. Carpet is highly combustible and produces much toxic smoke and gases. Rubber flooring creates toxic smoke and gases also, plus heat.

3.) No smoke or fire separation of sleeping area from other areas in same car.

4.) Plastic receptacles (garbage bags) for garbage and styrofoam cup collection. Plastic receptacles burn rapidly and produce much toxic smoke and gases. Styrofoam, when ignited, also produces toxic smoke and gases. They could use containers with deposit doors.

5.) No emergency lighting in event of loss of power. Emergency lighting is necessary to provide access to exit doors.

6.) A better escape window for use in smoke and fire. (A latch device which is operable to passengers, not requiring special training or abilities to operate device.)

7.) No extinguishing systems except small fire extinguishers, which are inadequate.

8.) Doors should swing out instead of in. I would hope this could be changed. Maybe sliding doors would be better.

9.) No method to remove smoke and heat. Windows not operable for smoke removal or escape.

If the proper individuals are made aware of these fire safety problems, then it will be worth our time to call attention to them.

We were lucky that more people did not die. The conductor played a very important part in this by separating the cars from the train, allowing a door to be opened to the outside. Before the cars were separated, one door was locked shut to the baggage car trapping the employees between the fire and the baggage car. The other escape route was blocked by fire.

Please do not let this issue go unnoticed. We have some really deep concerns for the passengers traveling across the country. I know of no regulations with regard to fire safety on passenger trains.

Sincerely,

Wallace M. Barnett, Jr.
State Fire Marshal

National Railroad Passenger Corporation 400 North Capitol Street N.W. Washington D.C. 20001 Telephone (202) 383-3000

Amtrak

March 16, 1988

Honorable J. James Exon
Chairman
Surface Transportation Subcommittee
Senate Committee on Commerce, Science
and Transportation
Washington, DC 20510

Dear Jim:

I am responding to your March 8 letter regarding correspondence you received from Mr. Wallace M. Barnett, Jr., Fire Marshall for the State of Nebraska. Mr. Barnett included a list of questions related to the February 20 fire aboard Amtrak's California Zephyr near Hastings, Nebraska. I understand your concern and appreciate the opportunity to address these questions and to clarify Amtrak's safety practices.

I simply cannot overemphasize the fact that Amtrak's overriding priority is the safety of its passengers and employees. As I indicated in my March 4 letter, Amtrak has been in the process of developing a fire and smoke alarm system for our passenger cars for several years. Various prototype systems using an ionized field have been tried but have not been successful due to their tendency to induce a large number of "false alarms". Vibration has been cited as a cause but it is not the only problem; rather, dust, cigarette smoke and other particulates in the air can trigger the device, making it an unsatisfactory, long-term solution for smoke detection on the passenger train. In addition, when the battery-operated "home type" smoke detectors were tested, they were vandalized or removed by unauthorized persons. I am pleased to report, however, that Amtrak recently requested solicitations from vendors for assistance in developing a detector system that would be viable in the passenger train, and we are working aggressively with four manufacturers to adapt a device that will meet our special needs. I am optimistic that we will be able to place them in prototype testing in the very near future. In the meantime, we are using currently available commercial units and will be closely monitoring their performance. We are also increasing the number and thoroughness of employee walk-through inspections of sleepers enroute to note any potential fire or hazards.

The interior of our sleeper and coach cars, both the walls and floors, are indeed covered with carpeting for the aesthetic comfort of our passengers as well as for the sound insulation factor. The floor covering does include rubber matting as a safety element. However, the interior components meet or exceed requirements established by the Urban Mass Transit Administration (UMTA) which are the most stringent in the transportation industry. We make a point of installing the best materials available at the time of construction and as industry research produces improved technology, we make use of it to upgrade our equipment where economically feasible. As an added measure, we are closely reviewing the materials that are used or stored in sleeping compartments to ensure that it is all non-flammable or at least self-extinguishing.

Mr. Barnett expressed concern that on the dormitory car there is no smoke or fire separation of the sleeping area from other areas of the same car. However, such an obstruction would impair ventilation, air conditioning and heating of the car; therefore, to ensure proper air flow, the entire car must be open. While there is no internal ventilation system designed specifically for smoke and heat removal, designated emergency windows are clearly marked with instructions for operation by passengers and we believe are adequate for allowing the escape of smoke and heat. The current emergency windows require only a little effort to remove the rubber strip which allows the entire window to be removed. Although latched windows would be more familiar to passengers, their installation would permit the frequent occurrence of a safety hazard where passengers, either inadvertently or on purpose, could open the windows while the train was in motion. It may interest Mr. Barnett to know that all new cars purchased by Amtrak do have sliding doors. Many cars that are part of the fleet Amtrak either inherited or purchased from the freight railroads were designed with swinging doors that swing in. It would be highly impractical and more dangerous to have these doors swing out, particularly in the vestibule end of the car where a passenger standing in the vestibule would not have sufficient space to stand clear of the door.

Mr. Barnett indicated that Amtrak lacked emergency lighting as well as an appropriate extinguishing system. However, this is not quite the case. Emergency lighting is powered by batteries in all passenger equipment and when the head end electrical power is disconnected, the emergency lights automatically come on. This system was fully operable during the Hastings incident. The fire extinguishers which are provided on each car for putting out small fires and to keep them from spreading are fully adequate and are similar to those provided in other modes of transportation. Fire proof trash containers are currently being placed in the food service and Superliner sleeping cars, and will eventually be installed in all cars in the system.

As you know, the findings of the National Transportation Safety Board (NTSB) as to the cause of the fire have not yet been released. However, Amtrak has independently retained the services of a nationally renowned fire inspector, Mr. Ron Hall of Ron Hall Investigations (who is coordinating with the NTSB), to analyze the circumstances surrounding the incident. His investigation revealed that the problem was not due to faulty wiring but rather to the phenomenal occurence of several combined factors, the absence of any one of which would have prevented the fire. Reduced insulation in wires of the heating system apparently melted plastic tie clamps which slowly ignited dust which had accumulated in the wall of the car. The fire smoldered for a time but before it could extinguish itself, it tragically spread to materials that were stored in the baggage compartment of the dormitory car. While it is highly unlikely that such a fire could occur again, we have taken the precaution of disconnecting the power source for the heaters on all cars of this type. Importantly, Mr. Hall concluded that the behavior of Amtrak employees was beyond reproach and that they acted commendably under difficult and frightening circumstances. As soon as the recommendations of the NTSB become available, we can further evaluate any other steps that are necessary provide additional safeguards for our on-board personnel and our customers.

Thank you for your concern on this important issue. I do hope this information will help to answer Mr. Barnett's questions and to help reassure you of the safety of our operations. If you have additional questions, please let me know.

Sincerely,

W. Graham Claytor, Jr.
President

FILE COPY

Mr. Ralph B. Everett, Esq., Chief Counsel
and Staff Director
Subcommittee on Surface Transportation
Committee on Commerce, Science and Transportation
U.S. Senate, SD-509

March 29, 1988

Re: Amtrak Oversight Hearings

Dear Mr. Everett:

I saw a notice in the Congressional Record to the effect that the subcommittee held hearings on Amtrak on March 17 and 24. It was on the 24th that I saw the notice--too late to act!

I would like to enter into the hearing record a brief prepared statement concerning the Amtrak Board's long-time refusal to implement and comply with the Government in the Sunshine Act, the Privacy Act of 1974, and critical provisions of the Freedom of Information Act.

Please, indicate by brief notation below (1) whether it is still possible to submit a 5-page statement for inclusion in the hearing record, and (2) how many copies you will need.

I would also like to ask whether the subcommittee wishes to file the testimony I have prepared for the Subcommittee on Federal Spending, Budget, and Accounting, concerning the Amtrak Board's failure to comply with the Sunshine Act. If this subcommittee desires to print this testimony in the Amtrak hearing record, I can easily make a new title page and submit the required copies of the prepared statement.

Very truly yours,

Alfred E. Ehm

Alfred E. Ehm
170 Carousel Drive
San Antonio, Texas 78227
512/673-8982

Encls. 1/

1/ The statement was not reproducible and is in the Committee files.